

Message

From: Red Brick Road [redbrickrd@outlook.com]
Sent: 9/7/2017 4:56:09 PM
To: Rave-Perkins, Krista [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=785ba3699a0f4d42989fba22e659ce74-Rave-Perkins, Krista]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: RE: Gunshy Manor - King County DPER evading 404 process

Thank you, Krista.

Is there any availability on the 14th or the 15th?

From: Rave-Perkins, Krista [mailto:Rave-Perkins.Krista@epa.gov]
Sent: Wednesday, September 6, 2017 3:50 PM
To: Red Brick Road <redbrickrd@outlook.com>
Cc: Szalay, Endre <Szalay.Endre@epa.gov>
Subject: RE: Gunshy Manor - King County DPER evading 404 process

Hello: Thank you for your patience. We would like to set up a call with you and have the following dates/times available:

Monday Sept. 11th 11:00 a.m. – 12:00 or 1:00 p.m. – 2:00

Wednesday Sept. 13th 10:00 a.m. – 11:00 or 2:00 p.m. – 3:00

Would you prefer to call us? If you would like for us to call you, please send me a phone number.

Thanks,

Krista Rave-Perkins, EPA
404 Enforcement Officer
206-553-6686

From: Red Brick Road [mailto:redbrickrd@outlook.com]
Sent: Tuesday, August 29, 2017 2:00 PM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>; Kowalski, Ed <Kowalski.Edward@epa.gov>
Subject: RE: Gunshy Manor - King County DPER evading 404 process

Thank you, Krista.

From: Rave-Perkins, Krista [mailto:Rave-Perkins.Krista@epa.gov]
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To: Red Brick Road <redbrickrd@outlook.com>; Kowalski, Ed <Kowalski.Edward@epa.gov>
Subject: RE: Gunshy Manor - King County DPER evading 404 process

Hello: I am writing to confirm that I received all of your email messages and Cathy's responses (King County contact). I also understand that you have contacted the Corps of Engineers. I will look into the concerns and get back to you as soon as I can. It might not be until tomorrow before I get all the information.

Thanks,

Krista

From: Red Brick Road [mailto:redbrickrd@outlook.com]

Sent: Friday, August 25, 2017 9:43 AM

To: Kowalski, Ed <Kowalski.Edward@epa.gov>; Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>

Subject: Gunshy Manor - King County DPER evading 404 process

Dear Mr. Kowalski, Ms. Rave-Perkins:

Would you be available for a call with our community at your earliest convenience next week?

We're writing to EPA to express our deep concerns with King County DPER's oversight and enforcement of EPA's Gunshy Manor settlement agreement.

As you know, the owners of Gunshy Manor have obtained an initial grading and filling permit from KC DPER to proceed with the restoration work mandated by the settlement. However, contrary to what EPA told our community, KC DPER have allowed the Grading and Fill permit to proceed without a US Army Corps of Engineers Section 404 permit. KC DPER determined the work on the property would be outside of the Waters of United States Statute's authority, therefore removing that regulatory hurdle of receiving a US ACoE review. As far as we know, this was a unilateral determination by KC DPER, without involving EPA or the State of WA.

As you also know, this decision echoes a number of questionable decisions made by DPER in the past, all providing undue favoritism to the owners of Gunshy Manor.

Additionally, we have learned that last week a SEPA addendum was granted to the grading and fill permit, thereby completing the KC DPER paperwork requirements. However, there is still no Critical Areas Designation on file for the site. KC DPER have evidently decided that the work can proceed without following the CAO. Again, this is exactly contrary to what EPA told our community would happen. And not surprisingly, we have visual evidence that best practices are not being followed, e.g. re-compaction of "restored" surfaces adjacent to the roads, and a lack of silt barrier fencing alongside the Farm Ditches.

We infer from all of this that KC DPER is unlikely to enforce the EPA settlement document we reviewed earlier this year. In fact, a member of our community was told verbally by KC DPER permit supervisor Steve Reberg that KC's authority to order restoration is not necessarily going to match the settlement. This give us reason to believe that KC DPER will neither supervise nor enforce that the restoration work even comes close to matching what the agreement calls for, including amounts of removed fill or final "road" widths.

Our community will continue to observe the restoration work and complain to DPER when the reality doesn't match the specifications. However, when the agency in charge of oversight are engaging in negligence (at best) or collusion (at worst), it's unclear we will be able to achieve the outcome described in the settlement. Further, this situation effectively discards many hours of fine work performed by EPA employees, makes a mockery of EPA's enforcement capabilities, and sets a dangerous precedent for the future.

Again, we would appreciate it if you could join us for a conference call to discuss these issues.

Thank you.

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From: Rave-Perkins, Krista [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=785BA3699A0F4D42989FBA22E659CE74-RAVE-PERKINS, KRISTA]
Sent: 9/6/2017 10:50:06 PM
To: Red Brick Road [redbrickrd@outlook.com]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
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404 Enforcement Officer
206-553-6686

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Sent: Tuesday, August 29, 2017 2:00 PM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>; Kowalski, Ed <Kowalski.Edward@epa.gov>
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To: Kowalski, Ed <Kowalski.Edward@epa.gov>; Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>
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Again, we would appreciate it if you could join us for a conference call to discuss these issues.

Thank you.

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From: Red Brick Road [redbrickrd@outlook.com]
Sent: 9/11/2017 5:17:06 PM
To: Rave-Perkins, Krista [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=785ba3699a0f4d42989fba22e659ce74-Rave-Perkins, Krista]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: RE: Gunshy Manor - King County DPER evading 404 process

Ah, sorry, I meant today.

A few of us will be calling in, so best you provide us with a number we can call into.

From: Rave-Perkins, Krista [mailto:Rave-Perkins.Krista@epa.gov]
Sent: Monday, September 11, 2017 7:58 AM
To: Red Brick Road <redbrickrd@outlook.com>
Cc: Szalay, Endre <Szalay.Endre@epa.gov>
Subject: RE: Gunshy Manor - King County DPER evading 404 process

Hi: When you say 1:00 pm, you mean today (Monday 11th)? Or Wednesday the 13th? Please send me a telephone number where we can call you. Otherwise, I will need to send you a phone number once I reserve a room/phone.

Thanks,
Krista

From: Red Brick Road [mailto:redbrickrd@outlook.com]
Sent: Sunday, September 10, 2017 6:10 PM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>
Subject: RE: Gunshy Manor - King County DPER evading 404 process

Alright, we'll take the 1:00pm slot. Thanks.

From: Rave-Perkins, Krista [mailto:Rave-Perkins.Krista@epa.gov]
Sent: Thursday, September 7, 2017 10:02 AM
To: Red Brick Road <redbrickrd@outlook.com>
Subject: RE: Gunshy Manor - King County DPER evading 404 process

No, we don't have time on either of those days. We might have another time slot open on the 13th if a different time on that day works better for you. However the latest on that day would be 3:00 – 4:00 on the 13th.
Sorry, we have limited time available in September.

From: Red Brick Road [mailto:redbrickrd@outlook.com]
Sent: Thursday, September 07, 2017 9:56 AM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>
Cc: Szalay, Endre <Szalay.Endre@epa.gov>
Subject: RE: Gunshy Manor - King County DPER evading 404 process

Thank you, Krista.

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From: Rave-Perkins, Krista [<mailto:Rave-Perkins.Krista@epa.gov>]
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206-553-6686

From: Red Brick Road [<mailto:redbrickrd@outlook.com>]
Sent: Tuesday, August 29, 2017 2:00 PM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>; Kowalski, Ed <Kowalski.Edward@epa.gov>
Subject: RE: Gunshy Manor - King County DPER evading 404 process

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Sent: Friday, August 25, 2017 9:43 AM
To: Kowalski, Ed <Kowalski.Edward@epa.gov>; Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>
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Sent: 7/27/2016 2:52:32 PM
To: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]; Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: RE: I will not be attending the Gunshy meeting in person

Hi Paul: We will call you then and use the number you gave. Thanks for letting us know.

From: Anderson, Paul S. (ECY) [mailto:paan461@ECY.WA.GOV]
Sent: Wednesday, July 27, 2016 7:45 AM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>
Subject: I will not be attending the Gunshy meeting in person

Krista and Endre:

I will be calling in to the meeting later today Gunshy Manor. You can reach me at (425) 649-7096 and I will be available at 12:30. If you would prefer that I call you, please provide the phone number for the conference room.

Thanks, talk to you this afternoon.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

Message

From: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Sent: 7/27/2016 2:45:08 PM
To: Rave-Perkins, Krista [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=785ba3699a0f4d42989fba22e659ce74-Rave-Perkins, Krista]; Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
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Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

Message

From: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Sent: 5/6/2016 12:13:25 AM
To: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: Re: Gunshy Manor Settlement Documents
Attachments: image001.png

Endure:

Thanks for forwarding this. I will take a look and let you know if I have any questions and also determine if I need additional documents from Gunshy for our agreed order.

Paul

Sent from my iPhone

> On May 5, 2016, at 5:10 PM, "Szalay, Endre" <Szalay.Endre@epa.gov> wrote:
>
> Paul:
>
> Attached are draft final versions of our settlement documents, including exhibits. The documents are currently routing for EPA management concurrence, and we should be sending them to Lori sometime next week. Please keep this close hold, as it's still undergoing management review, but I felt that you should have these in hand prior to finalization because of our collaboration and parallel enforcement. Please let me know if you have any questions. Also, please let me know if you need any assistance coordinating with Lori re the state's enforcement. Happy to assist.
>
> Thanks and talk soon,
>
> Endre M. Szalay
> Assistant Regional Counsel
> U.S. EPA, Region 10
> 1200 Sixth Ave., Suite 900, ORC-113
> Seattle, WA 98101-3140
> (206) 553-1073
> szalay.endre@epa.gov<mailto:szalay.endre@epa.gov>
>
> [http://www2.epa.gov/sites/production/files/epa_seal_verysmall.gif]
>
> <image001.png>
> <Estate of Nelson - Gunshy Manor, AOC (draft final - not signed).docx>
> <Estate of Nelson - Gunshy Manor, CAFO (draft final - not signed).docx>
> <Exhibit A - Estate of Nelson AOC & CAFO (Site Aerial).pdf>
> <Exhibit B - Estate of Nelson AOC (Draft Work Plan).pdf>
> <Exhibit C - Estate of Nelson AOC (Draft VegPlan).pdf>
> <Exhibit D - Estate of Nelson AOC (NWP32 Request Letter).docx>



Message

From: Lori Terry [lori.terry@foster.com]
Sent: 9/6/2016 6:47:45 PM
To: Rave-Perkins, Krista [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=785ba3699a0f4d42989fba22e659ce74-Rave-Perkins, Krista]; Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; 'Anderson, Paul S. (ECY)' [paan461@ECY.WA.GOV]
Subject: Estate of Barbara J. Nelson: EPA Order on Consent Docket No. CWA-10-2016-0087; Ecology Administrative Order Docket # 13182
Attachments: 1147 Final Restoration Mitigation Plan.pdf; Exhibit "A" – Draft Work.pdf; Exhibit "B" – Draft Vegetation Plan.pdf; EXHIBIT C SITE SURVEY SKETCH AND OR DRAWING DEPICTING SITES FEATURES AND....pdf; Exhibit D- Final Vegetation Plan.pdf

On behalf of the Estate of Barbara J. Nelson and in accordance with the EPA Administrative Order on Consent and Ecology Agreed Order referenced above, please see attached Final Restoration and Mitigation Work Plan and Exhibits. I would appreciate it if you would reply back to me so that I know you have received this email and attachments. Thank you.

Lori Terry Gregory
ATTORNEY | FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3000 | Seattle, WA 98101
P 206-447-8902 | E lori.terry@foster.com

Final Restoration and Mitigation Work Plan

William C. Nelson, Jr. and Estate of Barbara Nelson

I. Introduction and Purpose

This Restoration and Mitigation Work Plan (“Work Plan”) is proposed by William C. Nelson, Jr. and the Estate of Barbara Nelson (collectively “Nelson”) to satisfy the requirements of the Administrative Order on Consent (“AOC”), Docket No. CWA-10-2016-0087, effective June 7, 2016.

II. Work

The restoration and mitigation work documented in this Plan address alleged violations of the Federal Clean Water Act in areas known as the Spur Farm Road and the Loop Farm Road and in a portion of the South Farm Ditch located in the Summer Pasture. These areas are depicted in the documents entitled “EPA Draft Work Plan,” attached as Exhibit “A” and the “Draft Vegetation Plan,” attached as Exhibit “B.” Exhibits “A” and “B” also depict mitigation work to settle alleged violations of RCW 90.48 (Washington’s Water Pollution Control Act), which settlement is contained in Agreed Administrative Order Docket # 13182, issued by the Washington State Department of Ecology. The Work is described more specifically below.

A. Site Survey: Attached as Exhibit “C” is a scaled site survey, sketch(s) and/or drawing(s), depicting the Site’s features and boundaries (“Site Survey”) for purposes of locating the restoration and mitigation activities.

B. Description of Areas of Restoration and Mitigation Activities:

1. South Farm Ditch Meander:

(a) Area Where Activities Will Occur: A meander will be established in the portion of the South Farm Ditch located in the Summer Pasture as described in Exhibit “A.” The dimensions (length, width and depth) of the South Farm Ditch to be meandered are as follows: Starting approximately 5’ south of its confluence with the North Farm Ditch, the South Farm Ditch (approximately 12’-wide and approximately 2’-deep) will begin a concave curve to the west with a radius of approximately 75’ until it reaches a point approximately 40’ from the center of the current alignment. The South Farm Ditch will then reverse direction with a curve of approximately 20’ radius to the east. The South Farm Ditch will then begin a smooth transition back to the current alignment with a curve of approximately 125’ radius. The total length of the realigned portion of the South Farm Ditch is approximately 230’.

(b) Description of How Work Will be Completed:

(i) Task Schedule: Assuming all permits have been obtained, we estimate that the work on this portion of the project would begin in late summer of 2017, when the water level in the South Farm Ditch is either dry, or at its lowest level.

(ii) List of Heavy Earthmoving Equipment to be Used:

Mini-excavator, dump truck, skidster

(iii) Name(s) and Contact Information for Person(s) and/or Contractor(s) that will complete the Work: Robert Bailie, Cascade Utilities, 7600 185th Ave. NE, Redmond, WA 98052; (425) 861-8787.

Final Restoration and Mitigation Work Plan

William C. Nelson, Jr. and Estate of Barbara Nelson

(iv) Process for Meandering the South Farm Ditch and Vegetating the Area: The meander will be configured to match the existing slope and grade of the adjacent existing farm ditch. Materials excavated to create the meander portion will be used to fill the portion of the ditch to be abandoned. Excess material is anticipated from this portion of the project and will be used to replace gravel that will be removed from the Loop Farm Road. Farm Ditches on Gunshy Manor Farm will continue to be maintained according to normal farming practices, as needed, such as routine minor maintenance of farm ditches by hand-pulling, using hand-held tools or equipment, or using equipment that is carried when used. See Vegetation Plan attached as Exhibit "B" and described below.

(v) Upland Disposal Area: If any excess material is derived from this project, it will be minimal and used to backfill the areas along the Loop Farm Road where gravel will be removed.

(vi) List of Best Management Practices: Work will be completed in the late summer to lessen the likelihood of runoff from exposed soils during construction. Prior to construction, the Contractor will install orange filter fabric fences around all area of disturbance that may result in sediment entering the Farm Ditches or adjacent wetlands. Additional BMPs will be followed for the South Farm Ditch realignment as outlined in King County's Agricultural Drainage Assistance Program and approved by Washington Department of Fish and Wildlife, dated December 13, 2011, as well as WDFW's pamphlet on Aquatic Plants and Fish dated July 2015.

Two temporary dams will be installed at either end of the reach of the South Farm Ditch to be abandoned. This will create a fish exclusion zone and will serve to allow dewatering of the proposed work area. The dams will be constructed of sand bags, impermeable geotextile fabric, and hogwire fencing. The hogwire fencing will provide adequate structural support for the geotextile fabric and the sand bags will be used to seal the base of the dam.

During construction, access to the work area must be maintained for a variety of heavy equipment and vehicles. It is important to protect soil and existing vegetation from damage to the maximum extent practicable. Access to the construction area for heavy equipment and vehicles will be clearly defined in the field.

The new South Farm Ditch meander and the old abandoned and filled channel will be hydroseeded at the conclusion of construction. Bare soil along the new channel and the abandoned and filled old channel will be hydro-seeded to prevent erosion. The hydroseeding along the old abandoned channel will return that portion of the property into hay production. Revegetation of the new ditch channel per the Vegetation Plan will occur during the late summer or early fall. The temporary dams will be removed from the South Farm Ditch after hydroseeded grasses become established .

At the conclusion of the ditch meander work, soil and vegetation that were damaged will be revegetated by hydroseeding to return the impacted area back into farm production. When soils around the ditch meander area are stabilized through revegetation (or as determined by Talasaea Consultants), orange filter fabric fencing will be removed and disposed of at an offsite facility.

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William C. Nelson, Jr. and Estate of Barbara Nelson

2. Spur Farm Road and Loop Farm Road Modifications

(a) Area Where Activities Will Occur: The work on the Spur Farm Road and Loop Farm Road will occur in the area described in Exhibit “A.” Estimated volumes of excavation and backfilling to accomplish the Farm Road Modifications described above are shown on Exhibit “A”.

(b) Description of How Work Will be completed on the Spur Road:

Portions of the Spur Farm Road will be lowered by excavating and removing gravel and dirt to the proposed finished grade as shown on Exhibit A. Prior to construction, the Contractor will install orange fabric fences around areas of disturbance that may result in sediment entering the Spur Farm Road ditch or adjacent wetlands.

(i) Task Schedule: Assuming all permits have been issued, work on this portion of the project would begin in late summer of 2017, when water levels in the adjacent Spur Road ditch are low and after the first crop of hay has been harvested.

(ii) List of Heavy Earthmoving Equipment to be Used: 128 Excavator, dump truck, skidster, and mini-excavator.

(iii) Name(s) and Contact Information for Person(s) and/or Contractor(s) that will Complete the Work: Robert Bailie, Cascade Utilities, 7600 185th Ave. NE., Redmond, WA 98052; (425) 861-8787.

(iv) Process for Removing Gravel and Fill and Vegetating Area: Portions of the Spur Farm Road will be lowered by excavating and removing gravel and dirt to the proposed finished grade as shown on Exhibit “A” and portions of the Loop Farm Road will be reduced in width, as shown on Exhibit “A”. The width of the Loop Farm Road will be narrowed where needed to maintain a maximum 10-foot width. Where the Loop Farm Road exceeds 10 feet in width, the road will be reduced by removing the 5.5” gravel surface of the outer road edge approximately to the 10-foot width. A portion of the gravel edges of the Loop Farm Road that exceed 10 feet will be excavated and replaced with excess top soil from the South Farm Ditch meander for hay production. The disturbed area along the Loop Farm Road will be prepared and seeded with a pasture seed mix or hydro-seeded for use in the continued production of hay. The Spur Farm Road will also be seeded with grass seed or hydro-seeded after removal of the material. See Vegetation Plan attached as Exhibit “B” and as described in below.

(v) Upland Disposal Area: A portion of the gravel from the areas to be excavated along the Loop Farm Road will be stockpiled on site. The volume will be less than 30 cubic yards and kept in the existing gravel parking area, north of the Burn Pile Road for regravelling of upland farm road surfaces and filling potholes (as needed).

(vi) List of Best Management Practices: Work will be completed in the late summer to lessen the likelihood of runoff from exposed soils during construction. Prior to construction, the Contractor will install orange fabric fencing to define the limits of construction and to prevent mobilized soil, sediment, and other pollutants from entering the Farm Ditches or adjacent wetlands. At the conclusion of construction, the new Spur Farm Road bed will be compacted and hydro-seeded to prevent erosion. All exposed soil along the Loop Farm Road will be reseeded with an appropriate pasture mix of grasses, thus permitting continued hay production.

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3. Vegetation Plan

The contractor responsible for implementation of the Vegetation Plan is Gordon Wegner, G&F Landscape Services, 107 236th Street SE, Bothell, Washington 98021. (425) 487-0486.

Please see Draft Vegetation Plan attached as Exhibit “B, which includes both EPA and Ecology mitigation elements.” Consistent with Exhibit “B,” attached hereto as Exhibit “D” is a Final Vegetation Plan that identifies specific plant species, planting densities, planting locations, and vegetation techniques that will be employed. Prior to planting and seeding, the soil may be prepared using normal farming techniques such as plowing, disking, mulching, soil amendment by adding topsoil and harrowing as appropriate to provide a smooth planting area and/or a firm seedbed, depending on vegetation location. Lime and fertilizer may be applied, as needed.

All planting will occur during the fall to maximize plant survivability. All plants will be inspected prior to installation to ensure health and vigor. The project contractor will lay out the plants based on the approved planting plan. Talasaea will then inspect the proposed plant layouts and make adjustments of plant locations based on existing conditions to ensure that plants are not being installed in specific locations unsuitable for their long-term survival. Talasaea will also inspect all plant material after installation to ensure that they have been properly installed, per industry standards.

Prior to the installation of plants, the soil within the planting area will be properly prepared. Preparation will include the removal of rubble, trash, or other construction-related debris; loosening of compacted soil; removal of non-native, invasive plant species; improve soil drainage (if necessary); and amendments to soil (if necessary) to improve plant survival.

Plant pits will be created using a skidster or Cat 305E rubber-tracked powered auger. The planting pits created will not be deeper than the plant’s root ball or container depth. Soil amendments and fertilizer will be placed in the planting pits, if needed. Planting pits will be backfilled with topsoil from the auger cast-off to a depth not to exceed the crown of the plant. Plastic tubing or similar material will be placed around the stems of woody plants to prevent damage from small mammals, such as voles. These tubes will be removed at the end of the five-year monitoring period, or when plants are sufficiently mature to withstand potential small mammal damage. Planted material adjacent to ditches or streams will be protected from beaver by installing temporary wire fencing (i.e., hogwire fencing or similar material) around planting areas. This fencing will be removed at the end of the five-year monitoring period. Mulch rings will be established around planted material for a diameter of at least 2 feet and a depth of at least 3 inches.

All planted material will require irrigation during the first year in the ground. Irrigation may be required during subsequent years until planted material has become well established. Watering will occur at regular intervals through the summer months or during periods of prolonged drought. Irrigation will provide approximately 1 inch of water per week between June 15 and October 15, or more frequently if necessary. Irrigation amounts and frequency may be reduced if approved by Talasaea Consultants.

C. Monitoring Plan

1) *South Farm Ditch Meander*

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William C. Nelson, Jr. and Estate of Barbara Nelson

(a) The following monitoring will be conducted for a period of five (5) years from the date of entry of the AOC to monitor the meander of the South Farm Ditch: Due to the lack of slope and flow in the Farm Ditches, 5-year monitoring will be limited to erosion and channel stability. Turbidity monitoring will be conducted for a period of two years after installation of the meander.

(b) The monitoring will be recorded and photographed as follows:

Performance monitoring will be conducted according to all applicable code or regulatory requirements and permit conditions. Monitoring will occur for a minimum of five (5) years according to the schedule presented in Table 1 below. All monitoring will be performed by a qualified biologist or ecologist.

Table 1. Projected Schedule for Performance Monitoring and Maintenance Events

Year	Date	Maintenance Review	Performance Monitoring	Report Due to Agencies
Year 0, As-built and Baseline Assessment	Fall	X	X	X
1	Spring	X	X	
	Fall	X	X	X
2	Spring	X	X	
	Fall	X	X	X
3	Spring	X		
	Fall	X	X	X
4	Spring	X		
	Fall	X	X	X

At the conclusion of construction, permanent photopoints will be established to show the progress of the mitigation throughout the years of monitoring. Photos will be taken of the mitigation planting areas and included in the as-built report to be sent to the EPA and other jurisdictional agencies. Photos will be taken in subsequent years at these permanent photopoints to be included in each Anniversary report.

Performance monitoring will be conducted through evaluation of permanent sampling transects. The number and location of permanent sampling transects will be determined at the time of the baseline assessment for the as-built report. The starting points of these transects will be identified in the field using ½ inch rebar topped with plastic caps. Each transect will be a minimum of 50 feet long. The orientation of each transect will be recorded in the as-built report and will be reused for each monitoring event (i.e., each transect will be the same length and at the same orientation for each monitoring event as established in the as-built report). Percent aerial coverage will be determined using the point-intercept methodology along the transect line. Percent survival of planted material will be determined by direct inventory of planted material at a minimum of two feet on either side of the transect line (once a width is established for a particular transect line, that width will be used for all subsequent monitoring events for the transect). Baseline data collected during the as-built inspection will be used to show the progress of the mitigation plan towards the successful completion of stated mitigation goals.

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Each spring during the monitoring period, a maintenance and performance monitoring review will be conducted. The purpose of this review is to identify areas of the mitigation planting areas that may be damaged (herbivory, flooding, plant dieback, trash, or evidence of vandalism) so that appropriate corrective actions may be taken. If significant issues affecting the success of the mitigation are detected, Talasaea will work with the Client and jurisdictional agencies to prepare remedial action (see Adaptive Management discussion).

Data collected during the fall monitoring event will be used in that year's Anniversary report to the EPA and other jurisdictional agencies. These data will be compared with baseline data and data collected from previous years monitoring events to illustrate the site's progress towards successful mitigation. All comparisons and conclusions will be based on the project's stated mitigation goals.

(c) The following performance standards shall apply for the meander of the South Farm Ditch:

- i) **Ditch bank stability.** The South Ditch Meander will be evaluated during each monitoring event for evidence of erosion or sloughing. Such evidence will be photographed and its extent along the bank measured. Talasaea will collaborate with the Project Engineer, the Client, and the jurisdictional agencies to determine the cause of the failure and to devise a solution to stabilize the soil. Due to the relatively small amount of topographic difference between the proposed South Ditch Meander and Evans Creek, there will be little to no current flowing through the ditch system, especially during the wetter portions of the year. Without any significant current in the ditches, it is unlikely that bank failure due to erosion will occur.
- ii) **Plant survival.** Plant survival will be no less than 70 percent on any subsequent year of monitoring.
- iii) **Aerial plant coverage.** Total aerial coverage by woody plants will be 20% by the end of Year 1, 30% by the end of Year 2, 40% by the end of Year 3, and 50% by the end of Year 4.

d) If the performance standards referenced above are not met, then the following contingency/adaptive management plan shall apply:

The banks of the South Farm Ditch will be restabilized, the silt will be removed from the channel, and any exposed soil will be revegetated.

- i) **Consultation.** Talasaea will work with the Project Engineer, the Client, and the jurisdictional agencies to determine the cause of

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William C. Nelson, Jr. and Estate of Barbara Nelson

plant failure. Corrective actions will be developed to address the plant failures.

- ii) **Evaluation of Non-attainment of Performance Standards.** Non-attainment of performance standards concerning planted material may be caused by poor soil conditions or drainage, diseased stock, or herbivory. Poor soil conditions may be rectified through drainage improvements or soil amendments. Other potential solutions include planting different species that may be better adapted for a specific site condition (such as dry conditions or flood tolerance), or providing additional protection against herbivory.
- iii) **Active management and removal of invasive species.** Dead or dying plants will be removed and replanted. Substitution of plant species may be required if localized conditions are not favorable for the initial species planted. Invasive species, such as reed canarygrass or Himalayan blackberry, can prevent the establishment of desirable native plant species. Additional protection from herbivory will be provided, if needed.

2) *Spur Farm Road and Loop Farm Road Modifications:*

- (a) The following photographic monitoring shall be conducted for the Spur Farm Road and Loop Farm Road Modifications to confirm completion of the Work:

Permanent photopoints will be established within the Spur Farm Road and Loop Farm Road construction areas prior to the commencement of any work. The existing conditions of both construction areas (Spur Farm Road and Loop Farm Road) will be thoroughly photo-documented. These permanent photopoints locations will be used weekly to photo-document the progress of construction from incept to completion. These photos will illustrate how work is proceeding in these areas and document the final conditions following the completion of construction work. Photopoints will be located outside of the work area, but will provide panoramic views of said areas and the work being accomplished. The photos showing the existing condition and the as-built condition will be used to confirm the successful completion of the required work.

3) *Vegetation Monitoring Plan*

- (a) The following monitoring will be conducted for a period of five (5) years from the date of entry of the AOC: Tree and shrub survivability will be monitored once per year during the growing season, preferably during the late spring, by directly assessing plant health (survivability) for the trees and shrubs planted as part of this Work Plan. The first vegetation monitoring event will occur within twelve months following the completion of tree and shrub plantings. Subsequent Vegetation Monitoring will occur within twelve months after the prior vegetation monitoring event.

- (b) The monitoring will be recorded and photographed as follows:

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Performance monitoring will be conducted according to all applicable code or regulatory requirements and permit conditions. Monitoring will occur for a minimum of five (5) years according to the schedule presented in Table 2 below. All monitoring will be performed by a qualified biologist or ecologist.

Table 2. Projected Schedule for Performance Monitoring and Maintenance Events

Year	Date	Maintenance Review	Performance Monitoring	Report Due to Agencies
Year 0, As-built and Baseline Assessment	Fall	X	X	X
1	Spring	X	X	
	Fall	X	X	X
2	Spring	X	X	
	Fall	X	X	X
3	Spring	X		
	Fall	X	X	X
4	Spring	X		
	Fall	X	X	X

At the conclusion of construction, permanent photopoints will be established to show the progress of the mitigation throughout the years of monitoring. Photos will be taken of the mitigation planting areas and included in the as-built report to be sent to the EPA and other jurisdictional agencies. Photos will be taken in subsequent years at these permanent photopoints to be included in each Anniversary report.

Performance monitoring will be conducted through evaluation of permanent sampling transects. The number and location of permanent sampling transects will be determined at the time of the baseline assessment for the as-built report. The starting points of these transects will be identified in the field using ½ inch rebar topped with plastic caps. Each transect will be a minimum of 50 feet long. The orientation of each transect will be recorded in the as-built report and will be reused for each monitoring event (i.e., each transect will be the same length and at the same orientation for each monitoring event as established in the as-built report). Percent aerial coverage will be determined using the point-intercept methodology along the transect line. Percent survival of planted material will be determined by direct inventory of planted material at a minimum of two feet on either side of the transect line (once a width is established for a particular transect line, that width will be used for all subsequent monitoring events for the transect). Baseline data collected during the as-built inspection will be used to show the progress of the mitigation plan towards the successful completion of stated mitigation goals.

Each spring during the monitoring period, a maintenance and performance monitoring review will be conducted. The purpose of this review is to identify areas of the mitigation planting areas that may be damaged (herbivory, flooding, plant dieback, trash, or evidence of vandalism) so that appropriate corrective actions may be taken. If significant issues affecting the success of the mitigation are detected, Talasaea will work with the Client and jurisdictional agencies to prepare remedial action (see Adaptive Management discussion).

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Data collected during the fall monitoring event will be used in that year's Anniversary report to the EPA and other jurisdictional agencies. These data will be compared with baseline data and data collected from previous years monitoring events to illustrate the site's progress towards successful mitigation. All comparisons and conclusions will be based on the project's stated mitigation goals.

(c) The following performance standards for species shall apply: At least five (5) trees (three conifer and two small deciduous species) and nine (9) shrubs will be planted. At least 70% of this vegetation shall survive at the conclusion of the second vegetation monitoring event.

d) If the performance standards referenced above are not met, then the following contingency/adaptive management plan shall apply: Dead trees and shrubs will be replaced, as needed, to meet this performance measure. Tree or shrub species may be substituted in such areas where originally planted species are not surviving or healthy

D. Proposed Schedule.

The restoration and mitigation work will be generally sequenced as follows:

- Apply for and diligently pursue the legally required permits. Application for legally required permits will be submitted to the appropriate regulatory agencies no later than 90 days after the approval of this Work Plan by EPA.
- Survey and mark, as appropriate, areas for South Farm Ditch meander, farm road modification work, and tree and shrub planting.
- Following permit approvals, road modification work will be conducted after the meander work.
- South Farm Ditch meander work will begin during late summer 2017 when the ditch is either dry, or at its lowest level, and following permit approvals.
- Plant native trees and shrubs, according to the Vegetation Plan. Tree and shrub plantings will be completed during the first fall planting season (preferably late September or early October) following completion of both the farm ditch meander work and farm road modification work.

E. Contingency Plan (OR Adaptive Management Plan):

As stated previously, plants that do not survive or show a significant lack of vigor shall be replaced with new stock. Continuous non-attainment of performance standards may be the result of localized conditions being unfavorable for the specific species of plant installed. Substitution of plant species may be necessary to rectify such conditions.

III. Notifications and Reports

- 1) **Notification to EPA:** At least seven (7) days prior to commencing activities on the Site under the EPA-Approved Final Restoration and Mitigation Work Plan, Respondents will notify the following EPA representative of Respondent's intent to commence the work:

Final Restoration and Mitigation Work Plan

William C. Nelson, Jr. and Estate of Barbara Nelson

Krista Rave-Perkins, Water and Wetlands Enforcement Unit, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop – OCE-101, Seattle, Washington 98101, Phone: (206) 553-6686

2) **Completion Report:** Within 14 days of completing the on-site mitigation activities described herein, Respondents will notify the EPA representative specified in paragraph 5.6 of the AOC and the Ecology representative specified in the Ecology Order. The notification will include photographs of Site conditions before and after compliance with the AOC. EPA will approve the Completion Report within a reasonable time, not to exceed thirty (30) days from receipt of Respondent's written notification.

3) Annual Reports

Four (4) Annual Reports will be submitted to EPA as specified in paragraph 5.7 of the AOC and as specified in the "Progress Report" section of the Ecology Order, which will include: Documentation of the changes of South Farm Ditch meander (channel stability, and erosion); photographic documentation of the fill removal at the Spur Road; and documentation of the seeding/vegetation efforts described in the EPA Final Restoration and Mitigation Work Plan. The Reports shall be submitted on the following schedule:

Annual Report #1: On or before 1st anniversary of EPA's Approval of Completion Report

Annual Report #2: On or before 2nd anniversary of EPA's Approval of Completion Report

Annual Report #3: On or before 4th anniversary of EPA's Approval of Completion Report

Annual Report #4: On or before 5th anniversary of EPA's Approval of Completion Report

Reports shall be submitted to the following EPA and Ecology representatives:

EPA:

Krista Rave-Perkins

Water and Wetlands Enforcement Unit

U.S. EPA

1200 Sixth Avenue, Mail Stop – OCE-101

Seattle, WA 98101

Phone: (206) 553-6686

Ecology:

Paul S. Anderson

Department of Ecology

Northwest Regional Office

3190 160th Ave., SE

Bellevue, WA 98008

Phone: (425) 649-7148

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Exhibit “A”

Work Plan

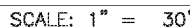
Final Restoration and Mitigation Work Plan
William C. Nelson, Jr. and Estate of Barbara Nelson

Exhibit “B”
Vegetation Plan

File: \\Esmc\eng\ESM-0065\1359\001\007\plan\CPA\CPA-01.dwg
Plotted: 10/14/2015 2:54 PM
Plotted By: eef 11/16

GUNSHY MANOR FARM
EPA DRAFT WORK PLAN

REVISIONS		
NO.	DESCRIPTION/DATE	BY
1	EPA COMMENTS 10/14/2015	ESM
<div><div></div><div><div>STATE OF WASHINGTON REGISTERED LANDSCAPE ARCHITECT <i>Leanne E. Korman</i> LEANNE E. KORMAN CERTIFICATE No. 743</div></div></div>		
<div><div><div>ESM</div><div>CONSULTING ENGINEERS, LLC 33400 8th Ave S, Suite 205 Federal Way, WA 98003</div></div><div><div></div><div>FEDERAL WAY, WA 98003 DAVID W. ESMC P.E.</div></div><div><div>www.esmcivil.com</div><div>Civil Engineering Public Works</div></div><div><div>Land Surveying Project Management</div><div>Land Planning Landscape Architecture</div></div></div>		
<div><div>THE ESTATE OF BARBARA J. NELSON</div><div><div>KING COUNTY</div><div>GUNSHY MANOR FARM</div><div>EPA DRAFT WORK PLAN</div></div><div>WASHINGTON</div></div>		
<div><div>JOB NO.: 1359-001-012</div><div>DWG. NAME: EN-01</div><div>DESIGNED BY: EQL</div><div>DRAWN BY: LDK</div><div>CHECKED BY:</div><div>DATE: 10/14/2015</div><div>DATE OF PRINT:</div></div>		



© PLANT NATIVE SPECIES EVERGREEN AND DECIDUOUS TREES TO PROVIDE SHADE AND REDUCTION OF WATER TEMPERATURE PER APPROVED KING CONSERVATION DISTRICT FARM CONSERVATION PLAN. SEE VEGETATION PLAN PREPARED BY TALASAEA CONSULTANTS FOR DETAIL.

- A. CONTROL PROBLEM PERENNIAL WEEDS.
- B. PRIOR TO SEEDING, APPLY LIME AND FERTILIZER AT RATES IN ACCORDANCE WITH CURRENT SOIL TESTING.
- C. PLOW OR DISC OLD SOD AS EARLY AS POSSIBLE.
- D. HARROW TO PREPARE A SMOOTH, FIRM SEEDBED.
- E. PLANT TO DESIRED PASTURE SPECIES IN EARLY FALL.

SOIL TYPE	USE: GRAZING ONLY OR GRAZING & HAY	USE: EXCLUSIVELY FOR HAY
SOMEWHAT POORLY DRAINED IN WINTER AND EARLY SPRING. RECOMMENDED SEEDING SEASON: SPRING OR FALL	TALL FESCUE ANNUAL RYEGRASS PERENNIAL RYEGRASS ALSKIE CLOVER WHITE CLOVER BIG TREFOIL BIRDSFOOT TREFOIL	TALL FESCUE TIMOTHY ALSKIE CLOVER WHITE CLOVER BIG TREFOIL BIRDSFOOT TREFOIL
MIXED DRAINAGE; DRY UPLANDS AND WET SWALES RECOMMENDED SEEDING SEASON: FALL	TALL FESCUE ANNUAL RYEGRASS PERENNIAL RYEGRASS ALSKIE CLOVER WHITE CLOVER BIG TREFOIL BIRDSFOOT TREFOIL MEADOW FOXTAIL	TALL FESCUE ORCHARDGRASS ¹ TIMOTHY ALSKIE CLOVER RED CLOVER WHITE CLOVER BIG TREFOIL BIRDSFOOT TREFOIL MEADOW FOXTAIL ²

1. USE ONLY IN A MIX WITH OTHER SPECIES.
2. SEEDING NOT RECOMMENDED. FOR MANAGEMENT AND REJUVENATION OF EXISTING STANDS
SEE SPECIES INFORMATION. (PASTURE AND HAYLAND RENOVATION FOR WESTERN WASHINGTON
AND OREGON, WASHINGTON STATE UNIVERSITY EXTENSION)

NOTE: This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of waters of the U.S.

THE ESTATE OF BARBARA J. NELSON
GUNSHY MANOR FARM
EPA DRAFT WORK PLAN

JOB NO.: 1359-001-012
DWG. NAME: EN-02
DESIGNED BY: EQL
DRAWN BY: LDK
CHECKED BY:
DATE: 10/14/2015
DATE OF
PRINT:

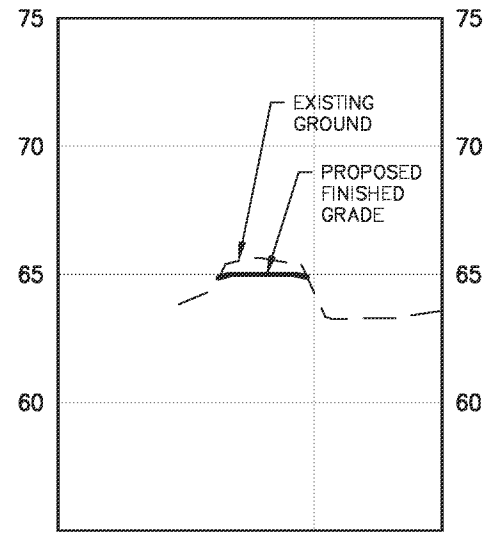
EN-02

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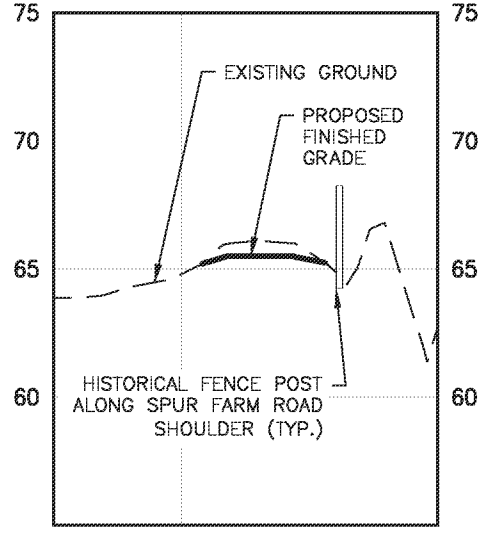
PROPOSED GRADING VOLUMES	
SPUR FARM ROAD EXCAVATION	= ±278 CY
FARM DITCH 1 EXCAVATION	= ±37 CY
FARM DITCH 1 FILL	= ±27 CY
NET EXCAVATION	= ±288 CY
MATERIAL TO BE KEPT ONSITE	= ±10 CY
MATERIAL TO BE EXPORTED	= ±278 CY

TABLE OF MITIGATION / RESTORATION SEQUENCE FOR WORK AREAS	
(D)	1. REMOVE PORTIONS OF GRAVEL AND DIRT LAYER FROM PRE-EXISTING COBBLE ROAD SURFACE. 2. HYDROSEED DISTURBED AREAS.
(E)	1. REMOVE PORTIONS OF GRAVEL AND DIRT LAYER FROM PRE-EXISTING DIRT FARM ROAD SURFACE. 2. HYDROSEED DISTURBED AREAS.

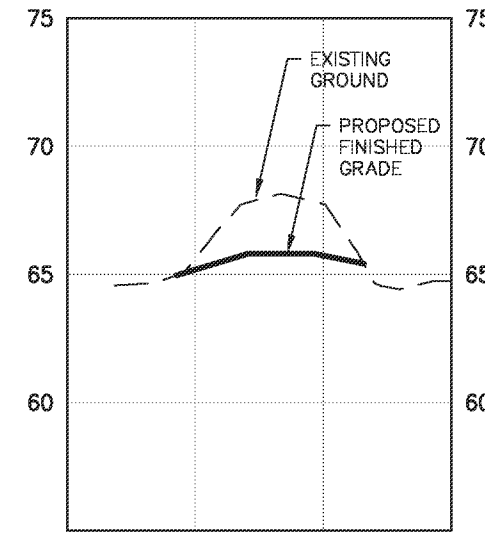
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CONTOUR INTERVAL = 2'



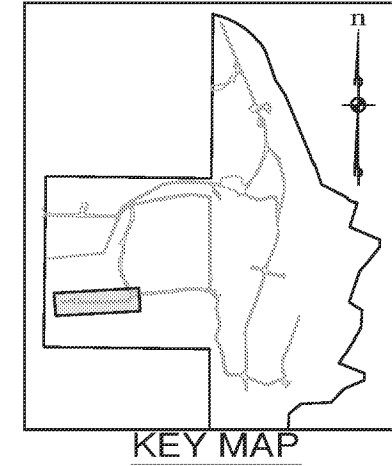
SECTION A-A
SCALE: 1"=20' HORIZ.
1"=5' VERT.



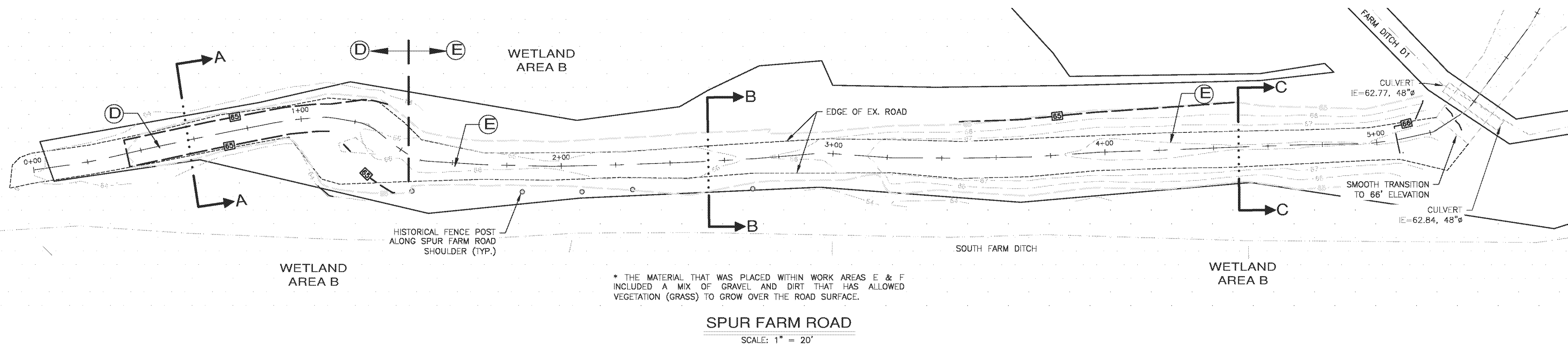
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SCALE: 1"=20' HORIZ.
1"=5' VERT.



SECTION C-C
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1"=5' VERT.

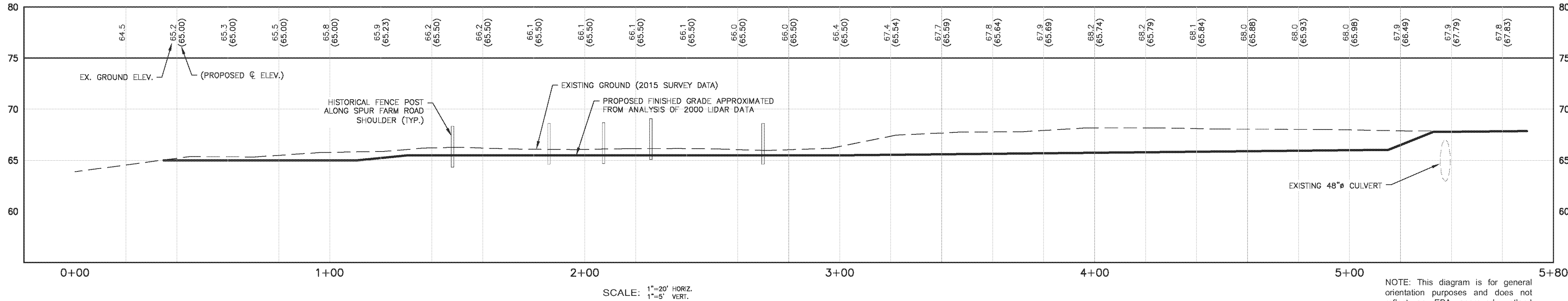


KEY MAP



* THE MATERIAL THAT WAS PLACED WITHIN WORK AREAS E & F INCLUDED A MIX OF GRAVEL AND DIRT THAT HAS ALLOWED VEGETATION (GRASS) TO GROW OVER THE ROAD SURFACE.

SPUR FARM ROAD
SCALE: 1" = 20'



NOTE: This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of waters of the U.S.

REVISIONS		
NO.	DESCRIPTION/DATE	BY
1	EPA COMMENTS 10/14/2015	ESM

STATE OF WASHINGTON
REGISTERED
LANDSCAPE ARCHITECT
Leanne E. Surman
LEANNE E. SURMAN
CERTIFICATE No. 743

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EPA DRAFT WORK PLAN
GUNSHY MANOR FARM

JOB NO.:	1359-001-012
DWG. NAME:	EN-03
DESIGNED BY:	EG
DRAWN BY:	LDK
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DATE:	10/14/2015
DATE OF PRINT:	

EN-03
3 OF 6 SHEETS

File: \\FarmEng\ESM-J085\1359\001\007\p00a\CPA\CPA-05.dwg
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SEE SHEET EN-04

SEE SHEET EN-06

C

C

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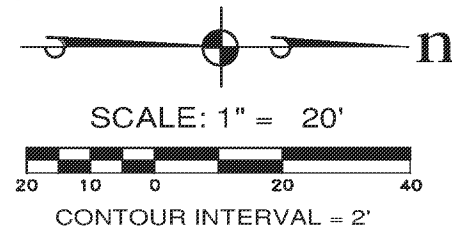
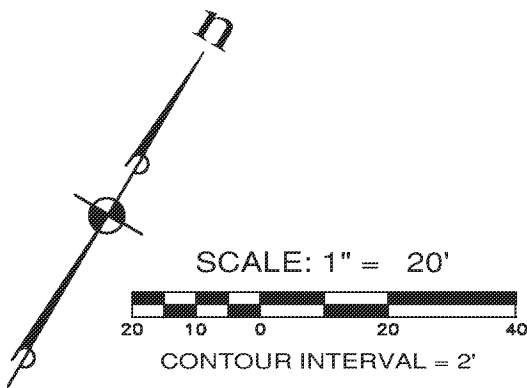
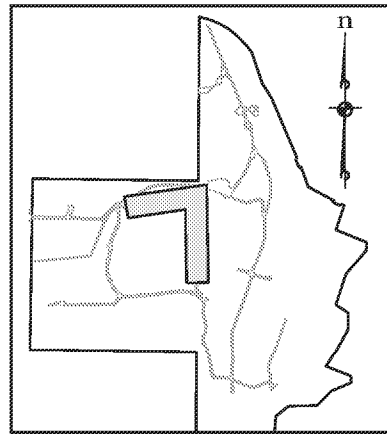


TABLE OF MITIGATION / RESTORATION
SEQUENCE FOR WORK AREAS

C PLANT NATIVE SPECIES EVERGREEN TREES TO PROVIDE SHADE AND REDUCTION OF WATER TEMPERATURE PER APPROVED KING CONSERVATION DISTRICT FARM CONSERVATION PLAN. SEE VEGETATION PLAN PREPARED BY TALASAEA CONSULTANTS FOR DETAIL.



KEY MAP

SEE VIEW ABOVE

SEE VIEW BELOW

FARM DITCH D2

FARM DITCH D2

NOTE: This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of waters of the U.S.

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THE ESTATE OF BARBARA J. NELSON

KING COUNTY

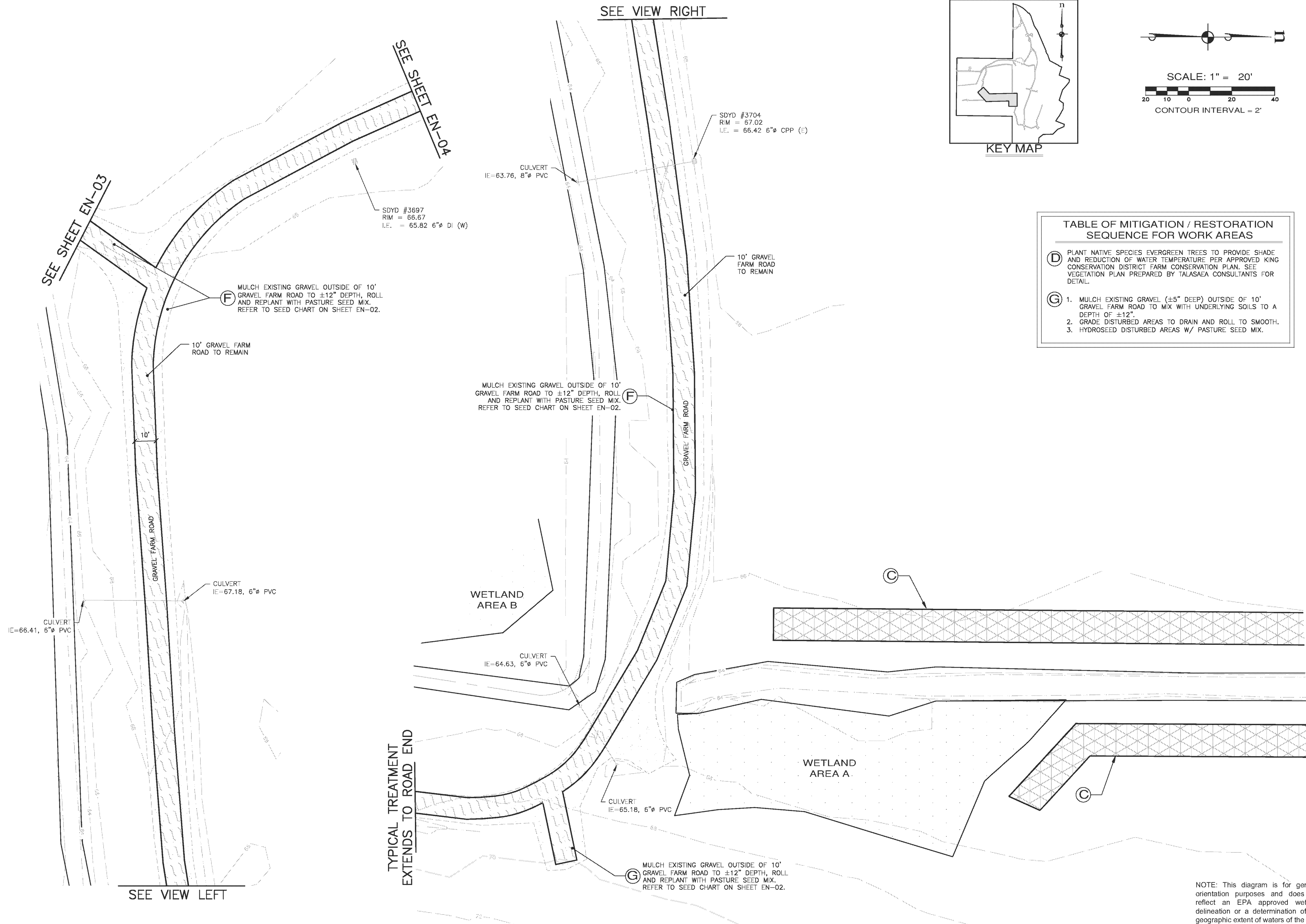
EPA DRAFT WORK PLAN

WASHINGTON

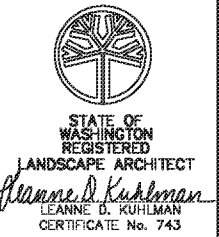
GUNSHY MANOR FARM

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DWG. NAME:	EN-05
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CHECKED BY:	
DATE:	10/14/2015
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5 OF 6 SHEETS	

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Plotted By: Jeff Hino



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THE ESTATE OF BARBARA J. NELSON

GUNSHY MANOR FARM

EPA DRAFT WORK PLAN

KING COUNTY

WASHINGTON

JOB NO.:	1359-001-012
DWG. NAME:	EN-06
DESIGNED BY:	EG
DRAWN BY:	LDK
CHECKED BY:	
DATE:	10/14/2015
DATE OF PRINT:	

DRAFT VEGETATION PLAN

**GUNSHY MANOR
KING COUNTY, WASHINGTON**

Prepared For:

THE ESTATE OF BARBARA J. NELSON.
Redmond, Washington

Prepared By:

TALASAEA CONSULTANTS, INC.
Woodinville, Washington

February 4th, 2016



February 4, 2016

Tal-1147

Mr. Buff Nelson
Estate of Barbara J. Nelson
16508 NE 79th Street
Redmond, WA 98052

REFERENCE: Gunshy Manor Farm Property

SUBJECT: Draft Vegetation Plan – Letter of Explanation

Dear Buff:

This letter provides some additional context to the attached Draft Vegetation Plan (Figure TC-1) for the Gunshy Manor farm property. This Draft Vegetation Plan provides additional diversity and complexity to the EPA Final Restoration Work Plan dated August 11th, 2015 (Figure EPA-1).

Gunshy Manor is an existing and fully functioning farm with a rich history. Because there is already considerable loss of valuable farmland in the Vegetation Plan, we have taken care to ensure that the vegetation not functionally interfere with the maintenance and operations of the farm and have avoided causing additional loss of farming land. The additional areas of vegetation take into account the need to preserve farmland and are consistent with and support the neighborhood's history of a rustic and pastoral environment. Our proposed additional shrubs and trees add diversity and complexity to the planting areas.

The mitigation areas outlined below reference Figure EPA-1. The location of the proposed supplemental vegetation communities is reflected in the Draft Vegetation Plan (Figure TC-1) and its associated figures:

Mitigation Area A (Figure EPA-1):

- Farm Ditch D1 shall be realigned (see civil plans) and planted with a variety of native trees/shrub species to enhance habitat complexity. **See Figure 1: Proposed Planting Community 1** for more information of conceptual plant spacing and arrangement.

Mitigation Area B (Figure EPA-1):

- Wetland Area B: See civil plans for restoration dated on 11 August 2015, with work completed in August 2015.

Mitigation Area C (Figure EPA-1):

- West of Wetland Area B: Area adjacent to Evans Creek and Red Brick Road. This is a High Visual Impact area. **See Figure 3: Proposed Planting Community 3** for more information of conceptual plant spacing and arrangement.
 - Create shading of Evans Creek for anadromous fish habitat.
 - Plant wet adapted species throughout riparian habitat area.
 - Plant understory shrubs in existing vegetated areas
 - Create access routes (approx. 10-foot wide, and 45 feet O.C.) in-between planting islands for farm maintenance.
- Confluence Farm Ditch 1 & 2: Area adjacent to Wetland Area B. Must be wet adapted due to seasonal high water table and periodic flooding from Evans Creek. **See Figure 2: Proposed Planting Community 2** for more information of conceptual plant spacing and arrangement.
 - Create shading of Ditch 2 for anadromous fish habitat.
 - Plant wet adapted species throughout riparian habitat area.
- Farm Ditch 2: Area adjacent to Thompson Field. Must not shade out fields due to agricultural production needs. **See Figure 4: Proposed Planting Community 4** for more information of conceptual plant spacing and arrangement.
 - Create shading of Farm Ditch 2 for anadromous fish habitat.
 - Plant predominately coniferous species throughout riparian habitat area.
 - Create access routes (approx. 10-foot wide, and 45 feet O.C.) in-between planting islands for farm maintenance.
 - Apply soil amendments as needed.

The EPA Final Restoration Work Plan proposed planting of approximately 200 coniferous trees along the farm ditches that require shade for anadromous fish habitat (see civil plans by ESM).

The **Proposed Planting Communities 1, 2, 3, and 4** contain approximately 125 trees, in addition to approximately 500 shrubs that, in combination, promote the desired habitat complexity and diversity.

Mr. Buff Nelson
Estate of Barbara J. Nelson
4 February 2016
Page 3 of 5

If you have any questions or need any additional information, please contact me as soon as possible via email at bshiels@talasaea.com or via phone at 425-861-7550.

Sincerely,

TALASAEA CONSULTANTS, INC.

William E. Shiels
Principal

Attachments:

- Figure TC-1: Draft Vegetation Plan
- Figure EPA-1: EPA Final Restoration Work Plan, prepared by ESM, dated 8-11-2015
- Figures 1, 2, 3, and 4: Proposed Planting Community
- Figure 5: Candidate Plant List
- Plant Illustrations

cc: Lori Terry Gregory, Foster Pepper
Eric LaBrie, ESM Consulting Engineers
David Halinen, P.E., Esq.
File

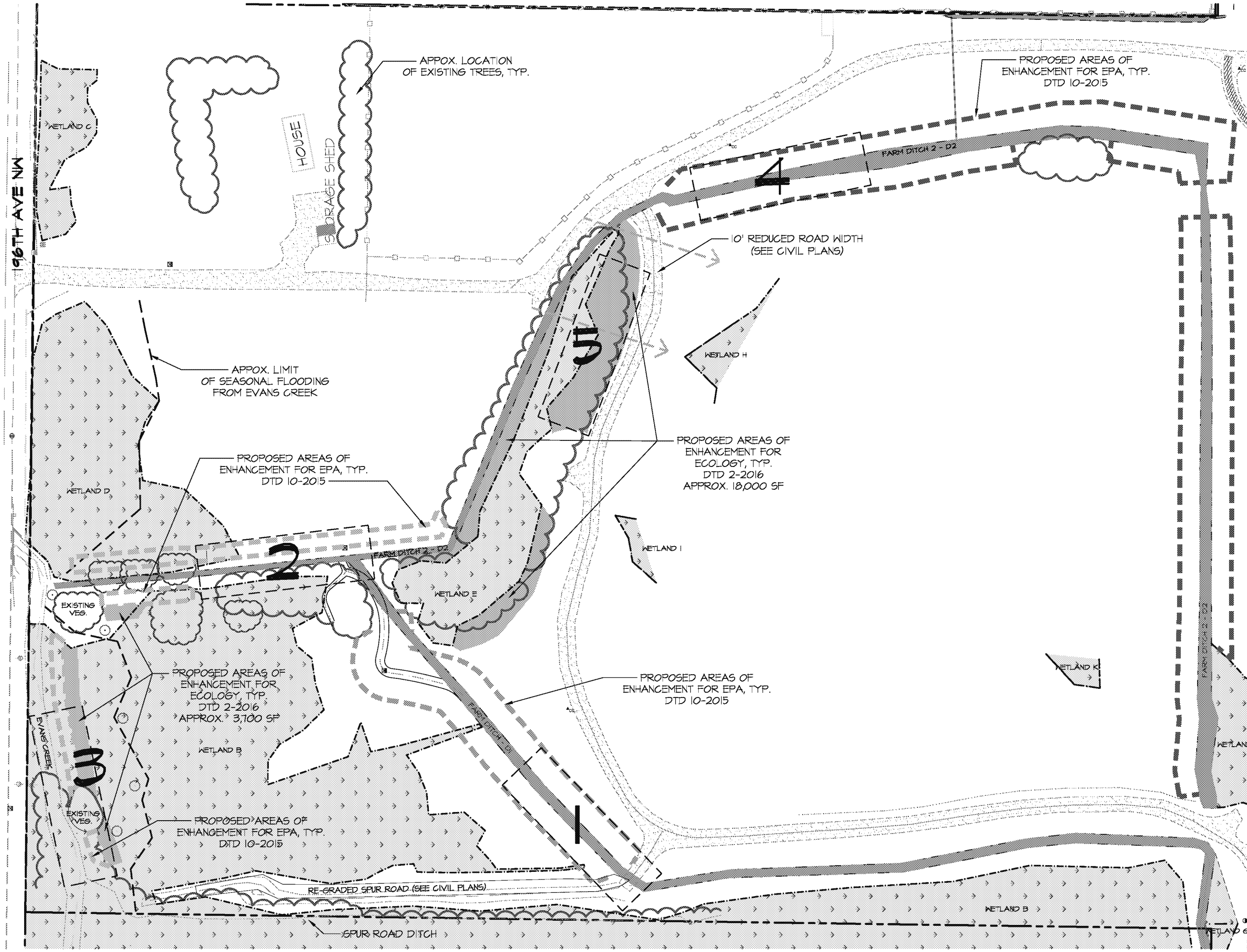
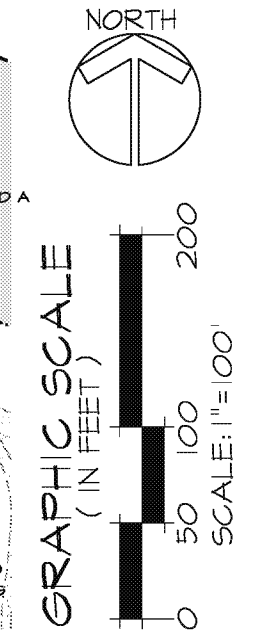


FIGURE TC-1 **DRAFT VEGETATION PLAN** GUNSHY MANOR - TAL1147



THIS DIAGRAM IS FOR GENERAL ORIENTATION PURPOSES AND DOES NOT REFLECT AN EPA APPROVED WETLAND DELINEATION OR A DETERMINATION OF THE GEOGRAPHIC EXTENT OF WATERS OF THE U.S.

LEGEND

ENHANCEMENT AREAS FOR EPA

ENHANCEMENT AREAS FOR ECOLOGY

TALASAEA CONSULTANTS, INC.
Resource & Environmental Planning
15020 Bear Creek Road, Northeast
Woodinville, Washington 98077
Bus (425)661-7550 - Fax (425)661-7549

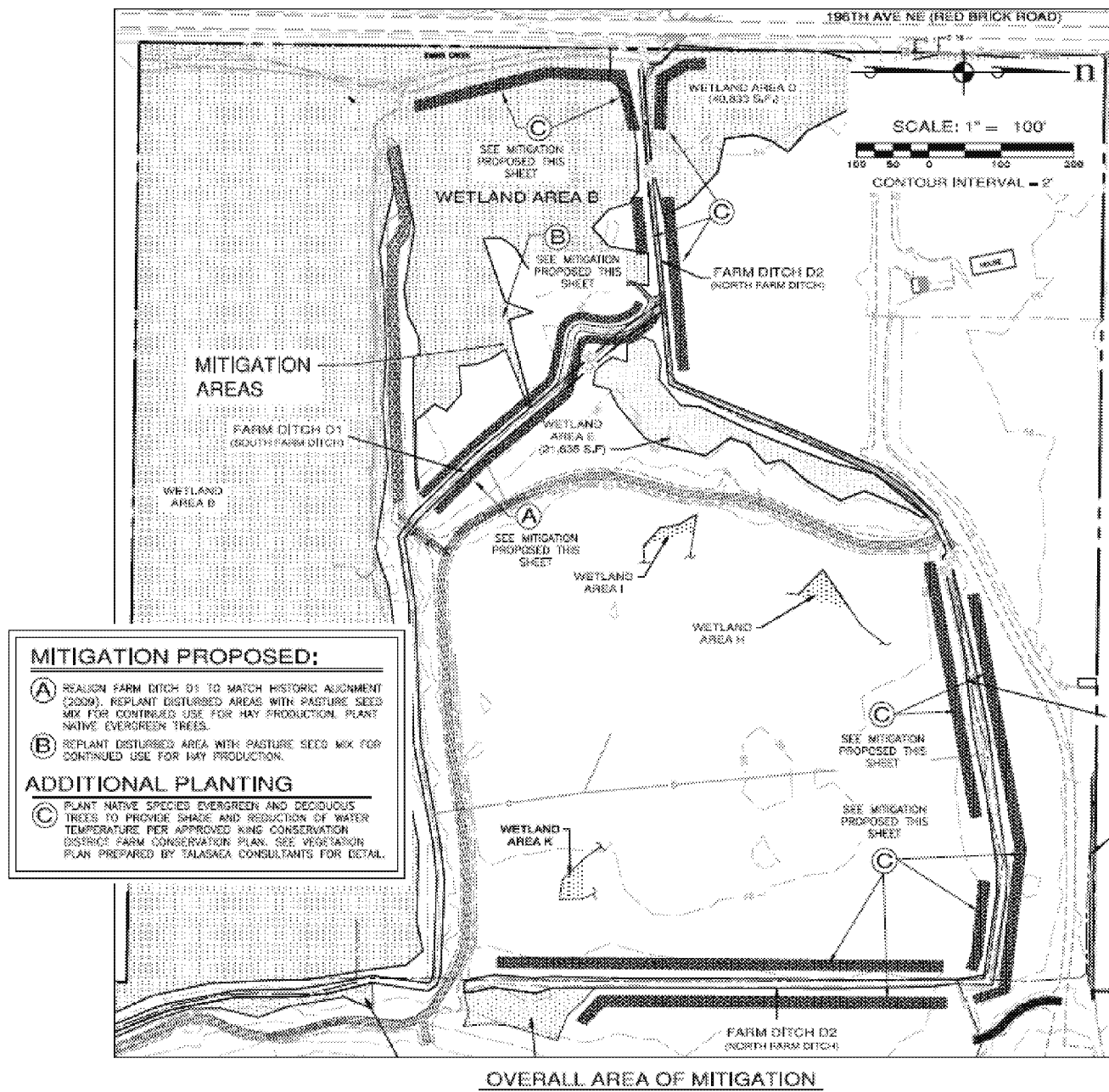
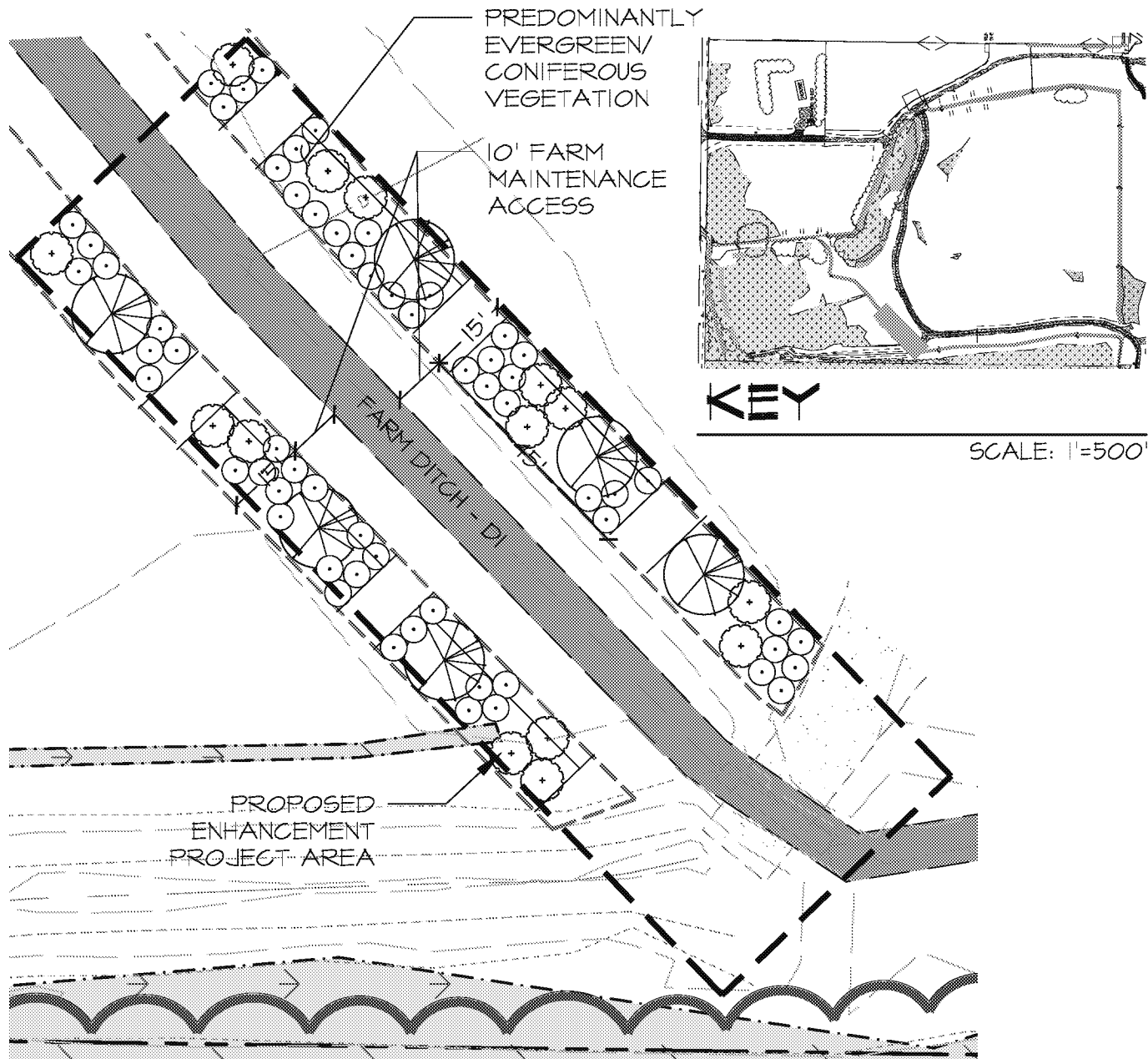


Figure EPA-1: EPA Final Restoration Work Plan prepared by ESM, dated 8-11-2015
(Sheet EN02 (clip only)).

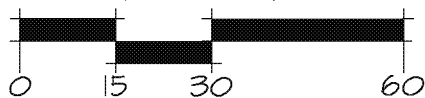
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PLANTING COMMUNITY I

SEE CANDIDATE PLANT LIST ON FIGURE 5

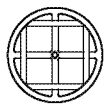
GRAPHIC SCALE
(IN FEET)



SCALE: 1"=30'



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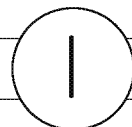
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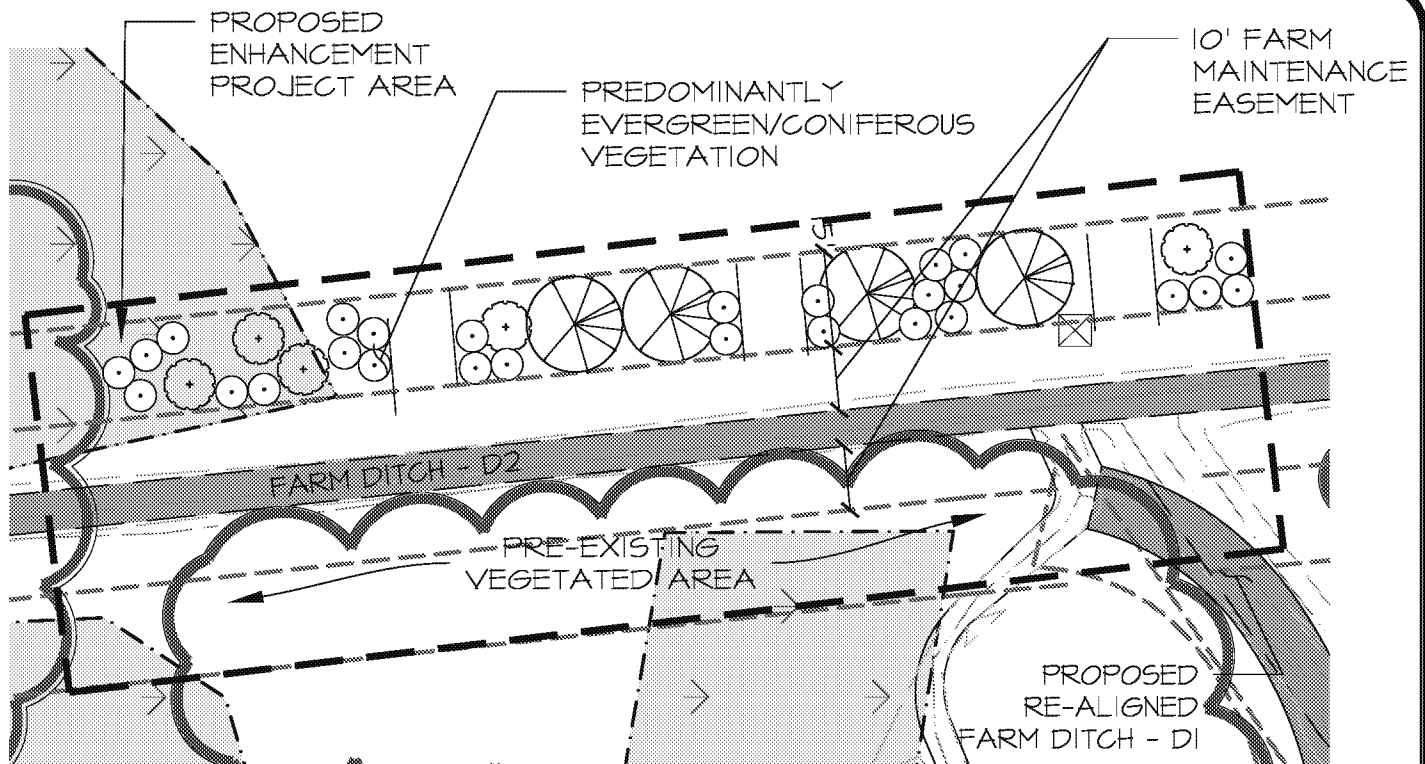
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FIGURE #1

PROPOSED PLANTING COMMUNITY I
GUNSHY MANOR
REDMOND, WASHINGTON

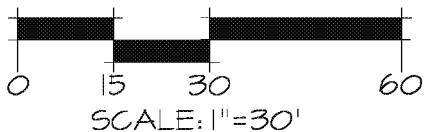
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PLANTING COMMUNITY 2

GRAPHIC SCALE
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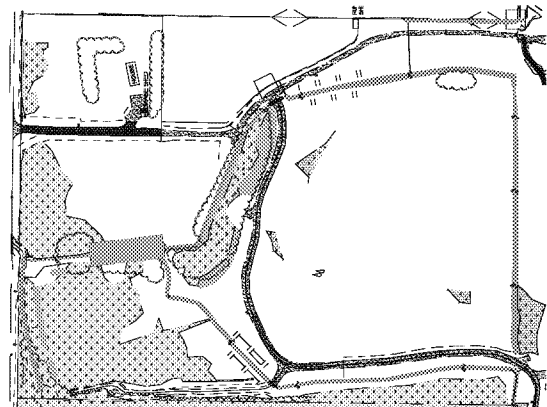
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○ MASSING SHRUB

⊕ LARGE SHRUB/SMALL TREE

⊗ CONIFEROUS TREE

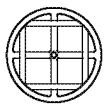
SEE CANDIDATE PLANT LIST ON FIGURE 5



KEY

SCALE: 1"=500'

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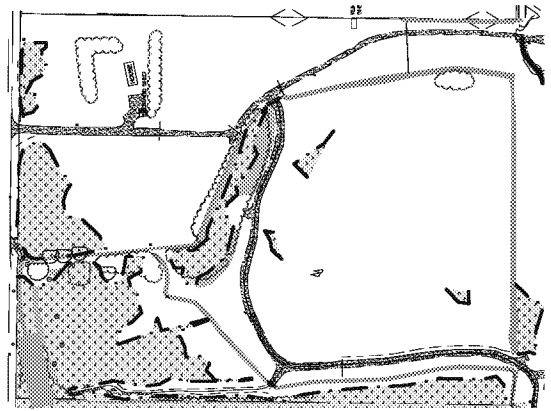
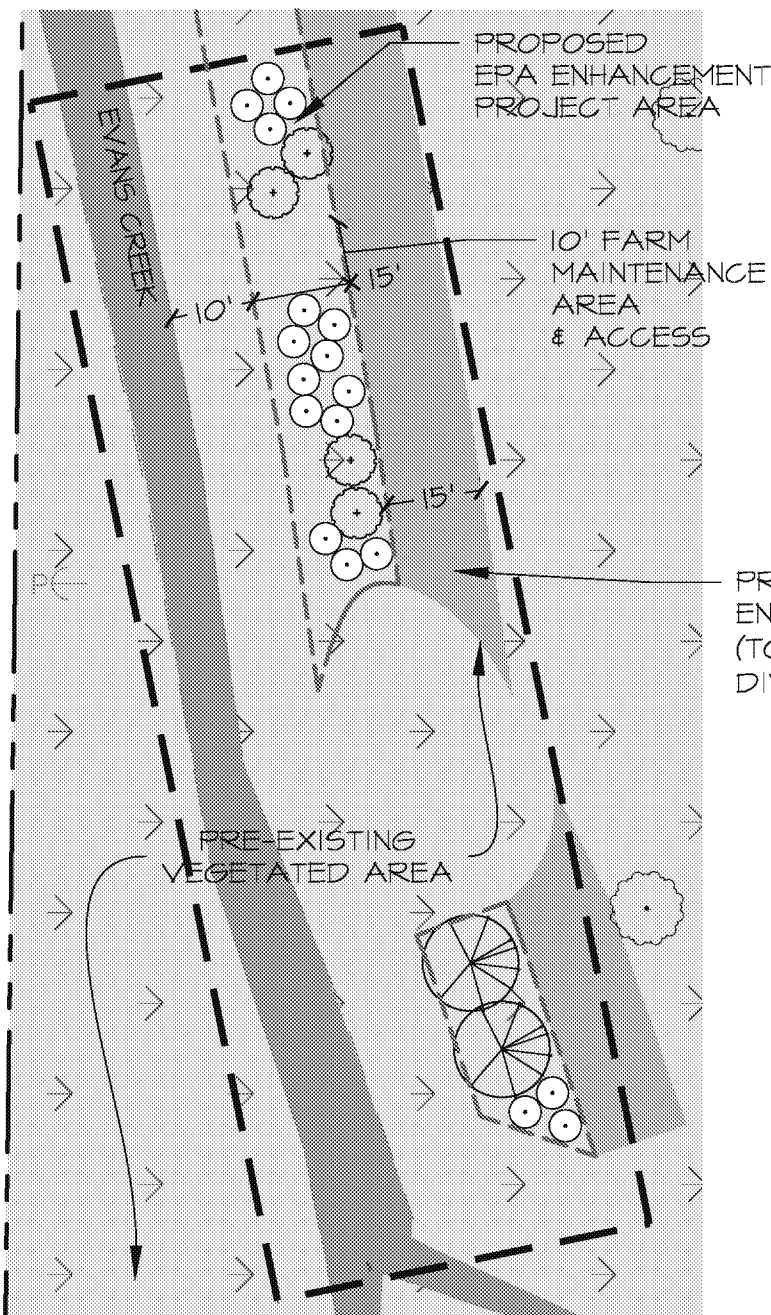
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FIGURE #2

PROPOSED PLANTING COMMUNITY 2
GUNSHY MANOR
REDMOND, WASHINGTON

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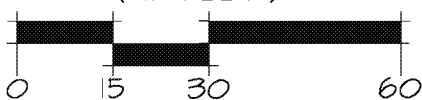
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PROPOSED ECOLOGY ENHANCEMENT PROJECT AREA (TO MATCH EPA PLANT MATERIAL DIVERSITY AND DENSITY)

PLANTING COMMUNITY 3

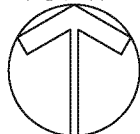
SEE CANDIDATE PLANT LIST ON FIGURE 5

GRAPHIC SCALE
(IN FEET)

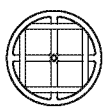


SCALE: 1"=30'

NORTH



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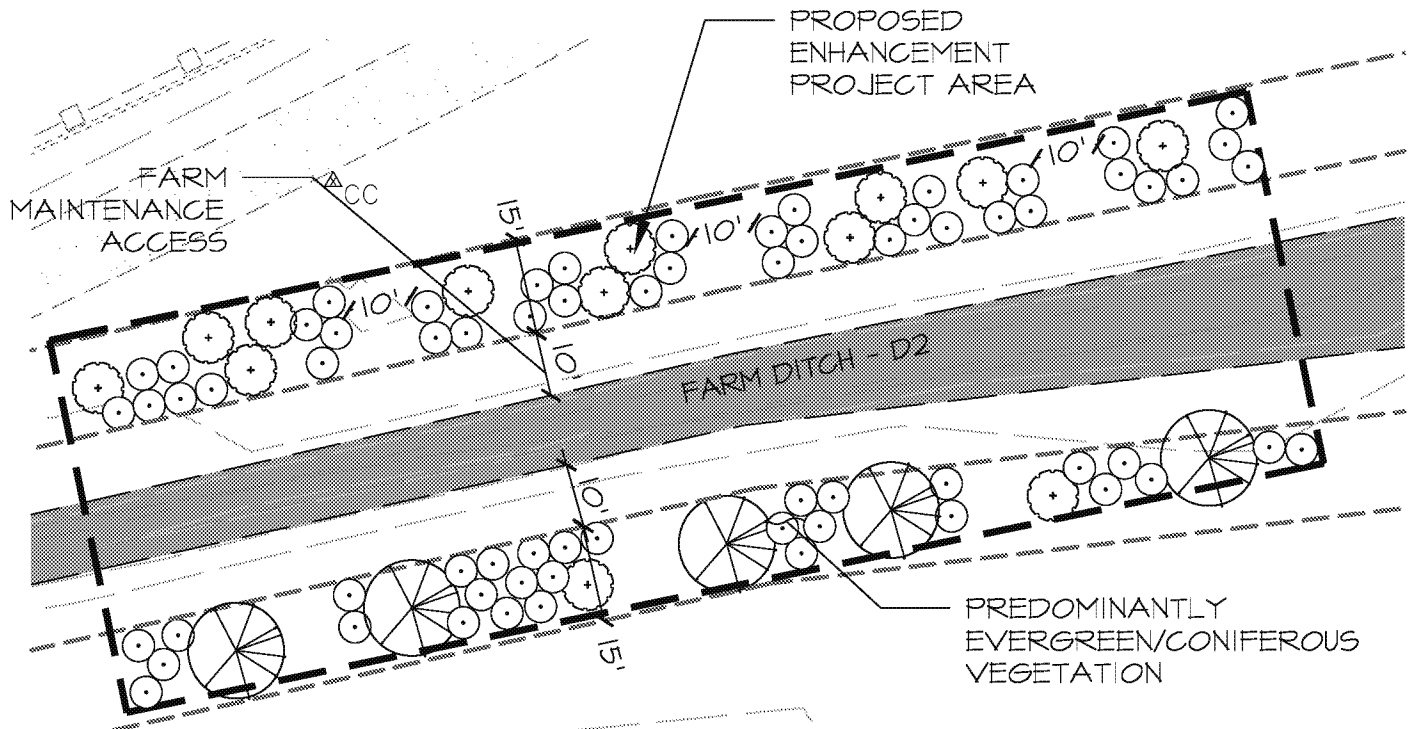
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FIGURE #3

PROPOSED PLANTING COMMUNITY 3
GUNSHY MANOR
REDMOND, WASHINGTON

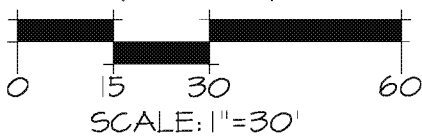
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DATE		
2-4-2016		
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PLANTING COMMUNITY 4

GRAPHIC SCALE
(IN FEET)



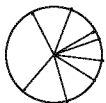
LEGEND



MASSING SHRUB

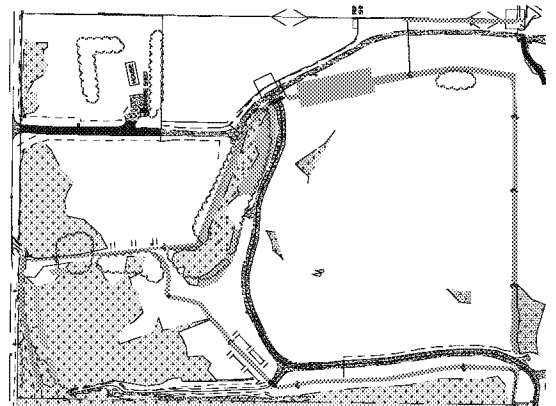


LARGE SHRUB/SMALL TREE



CONIFEROUS TREE

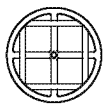
SEE CANDIDATE PLANT LIST ON FIGURE 5



KEY

SCALE: 1"=500'

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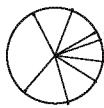
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FIGURE #4

PROPOSED PLANTING COMMUNITY 4
GUNSHY MANOR
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CANDIDATE PLANT LIST

CONIFEROUS TREES

SCIENTIFIC NAME	COMMON NAME	WL STATUS	SPACING	SIZE (MIN.)	NOTES
PICEA SITCHENSIS	SITKA SPRUCE	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY
PINUS CONTORTA VAR. CONTORTA	SHORE PINE	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY
THUJA PLICATA	WESTERN RED CEDAR	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY



SMALL DECIDUOUS TREE/LARGE SHRUB

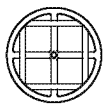
SCIENTIFIC NAME	COMMON NAME	WL STATUS	SPACING	SIZE (MIN.)	NOTES
ACER CIRCINATUM	VINE MAPLE	FAC	AS SHOWN	24" HT.	SINGLE TRUNK
CRATAEGUS DOUGLASII	BLACK HAWTHORN	FAC	AS SHOWN	24" HT.	SINGLE TRUNK
MAHONIA AQUIFOLIUM	OREGONGRAPE	FACU	AS SHOWN	24" HT.	SINGLE TRUNK
PHYSOCARPUS CAPITATUS	PACIFIC NINEBARK	FACW	AS SHOWN	24" HT.	SINGLE TRUNK
VIBURNUM EDULE	HIGH-BUSH CRANBERRY	FACW	AS SHOWN	24" HT.	SINGLE TRUNK



MASSING SHRUB

SCIENTIFIC NAME	COMMON NAME	WL STATUS	SPACING	SIZE (MIN.)	NOTES
CORNUS SERICEA	RED-OSIER DOGWOOD	FACW	4' O.C.	NA	4' CUTTING
LONICERA INVOLUCRATA	BLACK TWIN-BERRY	FAC	4' O.C.	NA	4' CUTTING
ROSA NUTKANA	NOOTKA ROSE	FAC	4' O.C.	18" HT.	MULTI-CANE (3 MIN.)
ROSA PISOCARPA	CLUSTERED WILD ROSE	FAC	4' O.C.	18" HT.	MULTI-CANE (3 MIN.)
SYMPHORICARPOS ALBUS	COMMON SNOWBERRY	FACU	4' O.C.	NA	4' CUTTING
VACCINIUM OVATUM	EVERGREEN HUCKLEBERRY	FACU	4' O.C.	18" HT.	MULTI-CANE (3 MIN.)

NOTE: PLANT SPECIES ARE SUBJECT TO CHANGE DUE TO AVAILABILITY OF PLANT STOCK AT TIME OF PLANTING AND ENVIRONMENTAL CONSTRAINTS.



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CONSULTANTS, INC.

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FIGURE #5

CANDIDATE PLANT LIST
GUNSHY MANOR
REDMOND, WASHINGTON

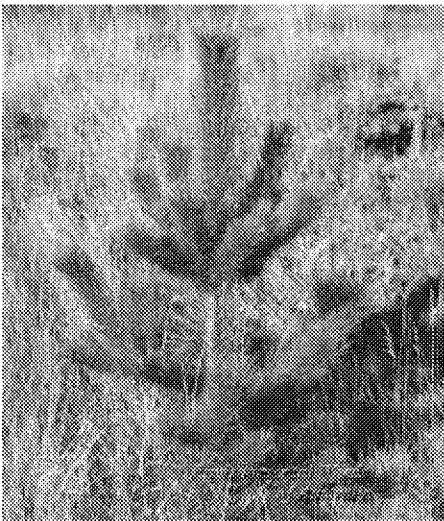
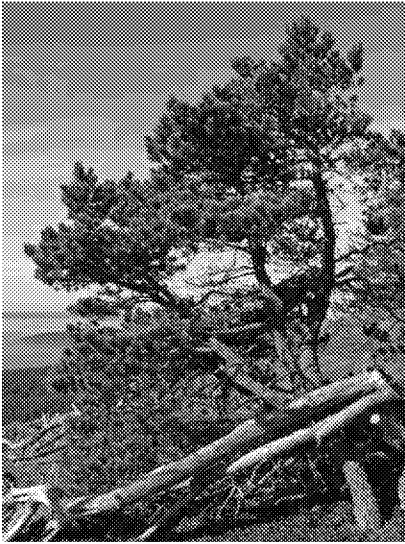
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AS SHOWN		
DATE		
10-13-2015		
REVISED		

5

Native Plant Example

Conifer

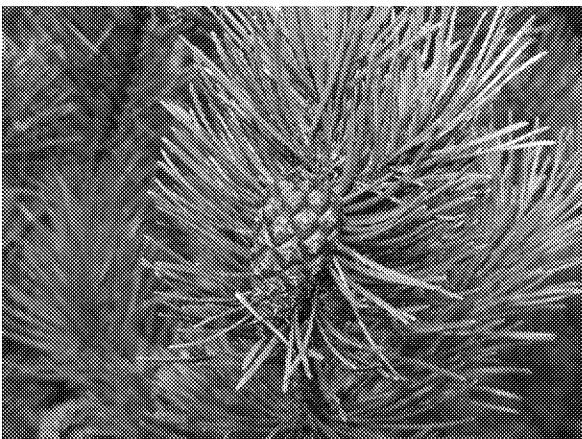
Pinus contorta var. *contorta*
(Shore Pine)



Sapling



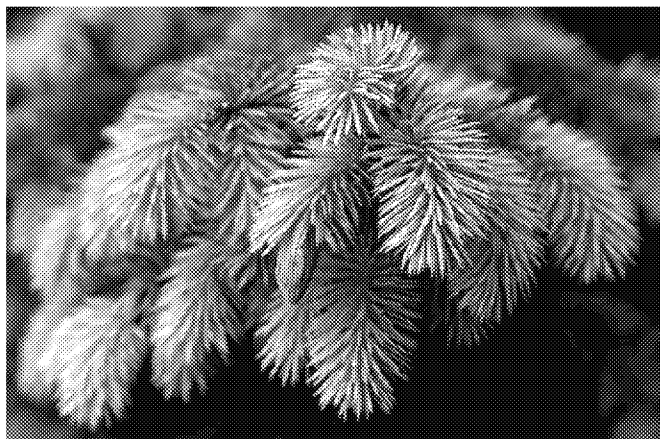
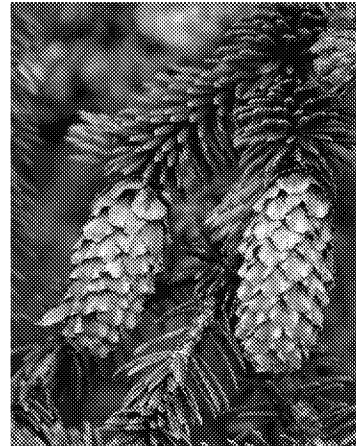
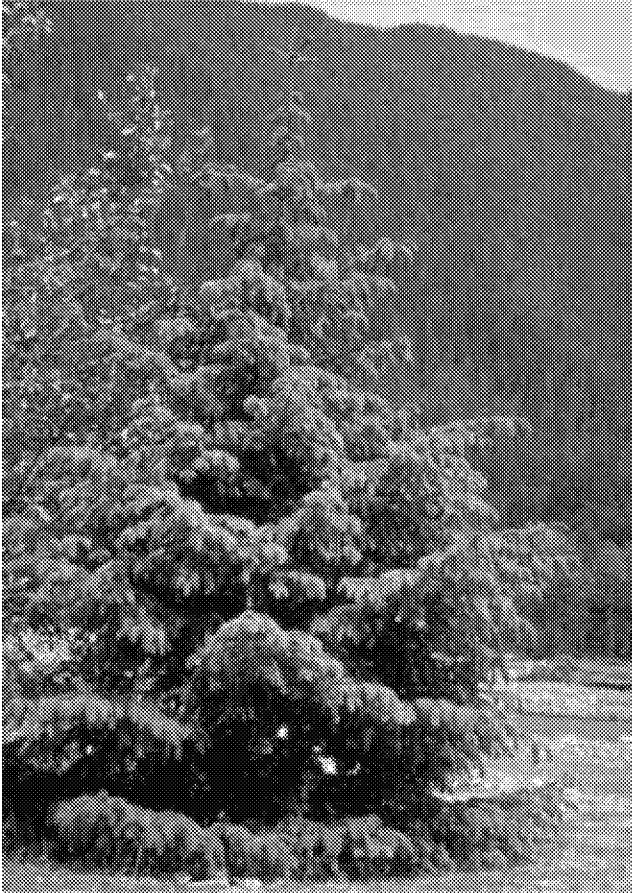
Bark



Native Plant Example

Conifer

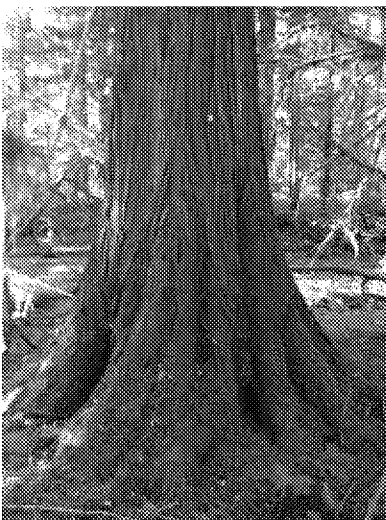
Sitka Spruce
(*Picea sitchensis*)



Native Plant Example

Conifer

Western Red Cedar
(*Thuja Plicata*)



Native Plant Example

Riparian / Wetland Shrub

Pacific Ninebark (*Physocarpus capitatus*)



Mature plant



Spring flowers



Fruit



Spring flowers

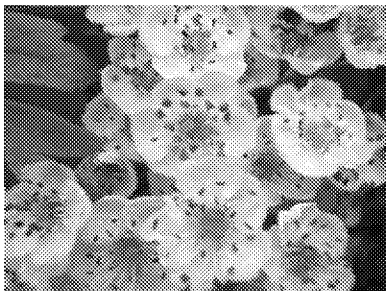


Fall color

Native Plant Example

Small Tree/Large Shrub

Black Hawthorn
(*Crataegus douglasii*)



Native Plant Example

Riparian / Wetland Shrub

Highbush Cranberry (*Viburnum edule*)



Mature plant



Fruit & fall color



Spring flowers



Spring foliage

Native Plant Example

Riparian / Wetland Shrub

Red-osier Dogwood (*Cornus sericea*)



Red stem color visible after leaf drop



Spring flowers



Fall color



Mature plant with summer foliage

Native Plant Example

Medium Upland Shrub

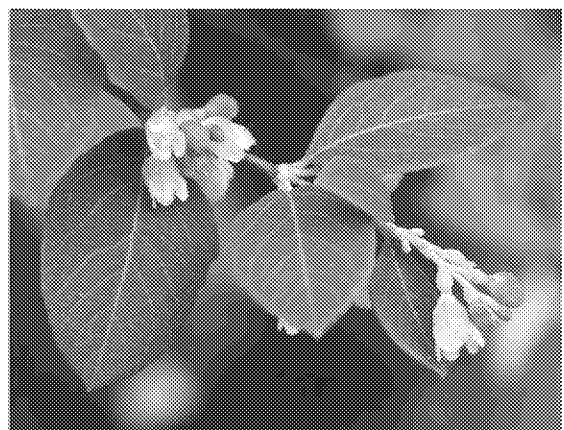
Snowberry (*Symphoricarpos albus*)



Mature plant



Fruit



Spring flowers

Native Plant Example

Medium Shrub

Rose Species

(*Rosa gymnocarpa*, *Rosa nutkana*, *Rosa pisocarpa*)



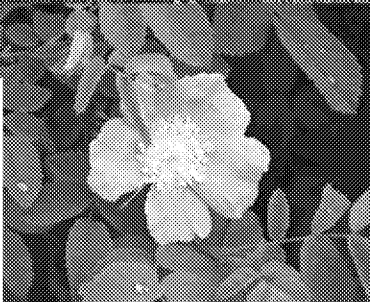
Rosa gymnocarpa



Rosa gymnocarpa



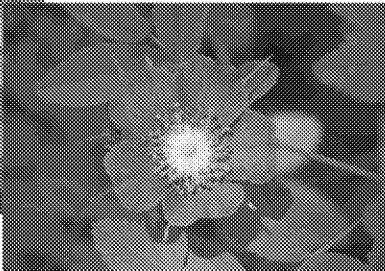
Rosa nutkana



Rosa nutkana



Rosa pisocarpa



Rosa pisocarpa

Native Plant Example

Small Deciduous Tree

Vine Maple
(*Acer circinatum*)



Summer foliage



Landscape setting



Fall color

Native Plant Example

Medium Upland Shrub

Evergreen Huckleberry (*Vaccinium ovatum*)



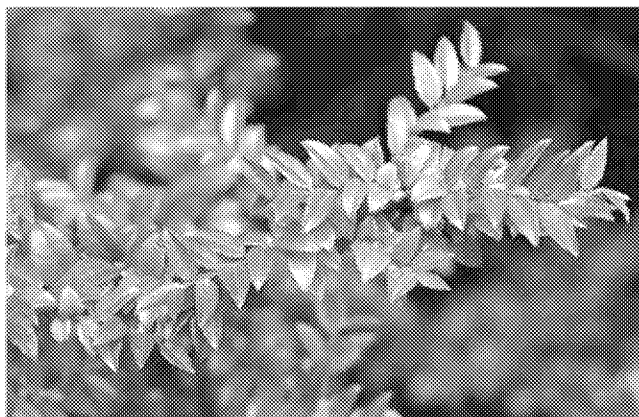
Mature plant



Spring flowers



Summer fruit



Bronze new growth

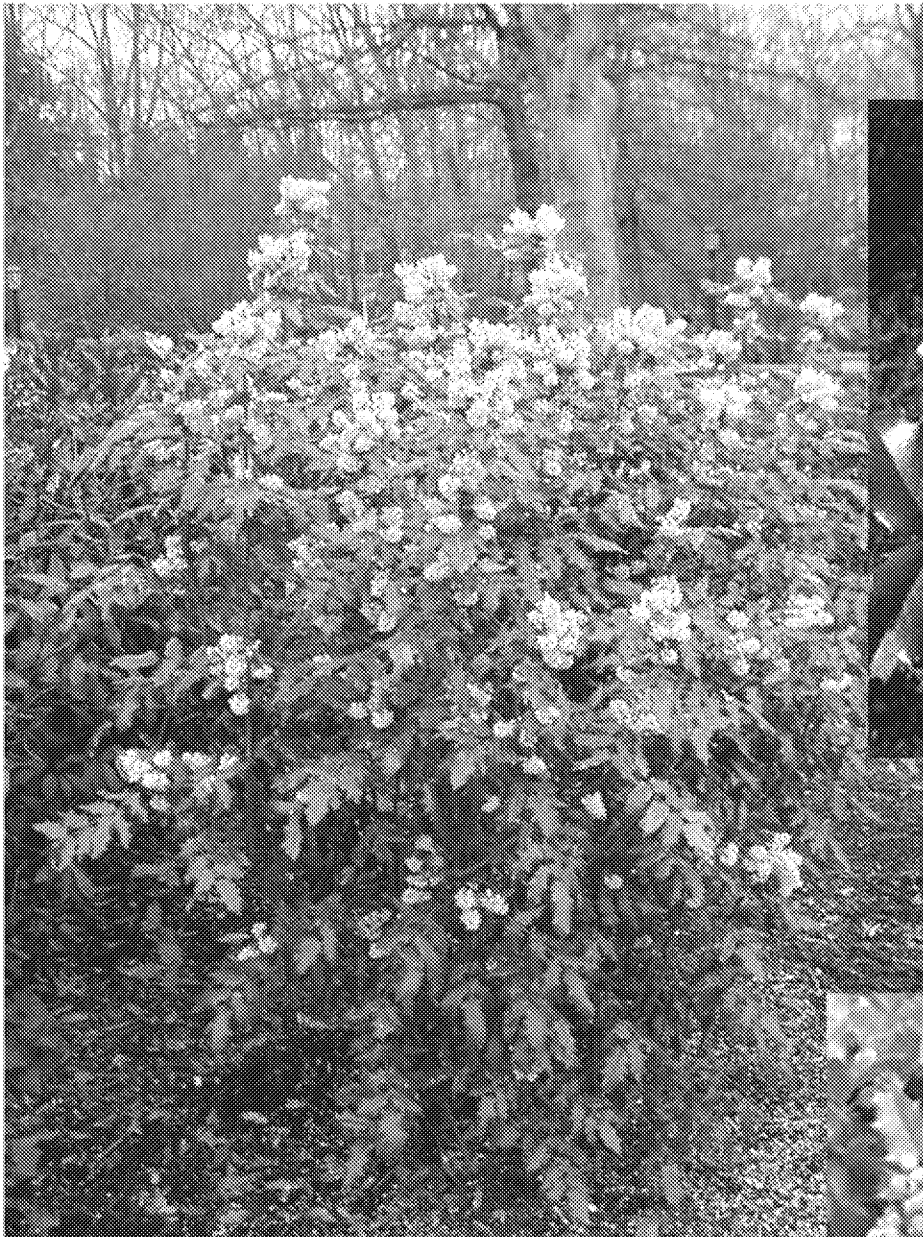


Reddish winter color

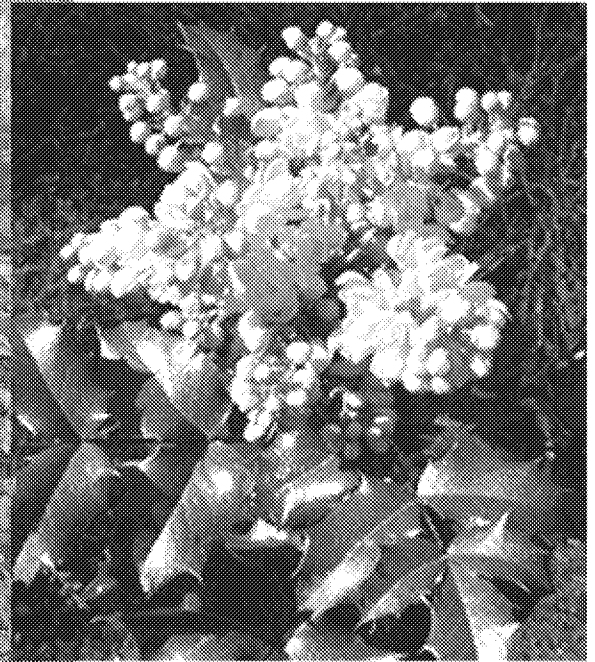
Native Plant Example

Large Upland Shrub

Tall Oregon Grape (*Mahonia aquifolium*)



Mature plant in spring bloom



Spring flowers



Summer fruit

CONSTRUCTION PLANS for GUNSHY MANOR FARM

C/O WILLIAM C. NELSON, JR.
16508 NE 79TH STREET
REDMOND, WA 98072

CONTRACTOR MUST OBTAIN A COPY OF THIS CONSENT ORDER TO
PERFORM ANY OF THE WORK SHOWN ON THIS PLAN SET AT LEAST
48 HOURS PRIOR TO THE INITIATION OF SUCH WORK,

THE ESTATE OF BARBARA J. NELSON AND THE WCN
GST NONEXEMPT MARITAL TRUST #2
C/O WILLIAM C. NELSON, JR.
16508 NE 79TH STREET
REDMOND, WA 98072

TALASAEA CONSULTANTS
10520 BEAR CREEK RD. NE
WOODINVILLE, WA 98072
PHONE: 425-861-7550
CONTACT: BILL SHIELS

KING COUNTY ASSESSORS PARCEL NUMBERS: 082506-9012
-9103
-9104
-9105

COMPREHENSIVE PLAN DESIGNATION: RURAL

LAND USE: RESIDENTIAL/FARMING

DOCKET NO. CWA-10-2016-0087
EFFECTIVE JUNE 7, 2016

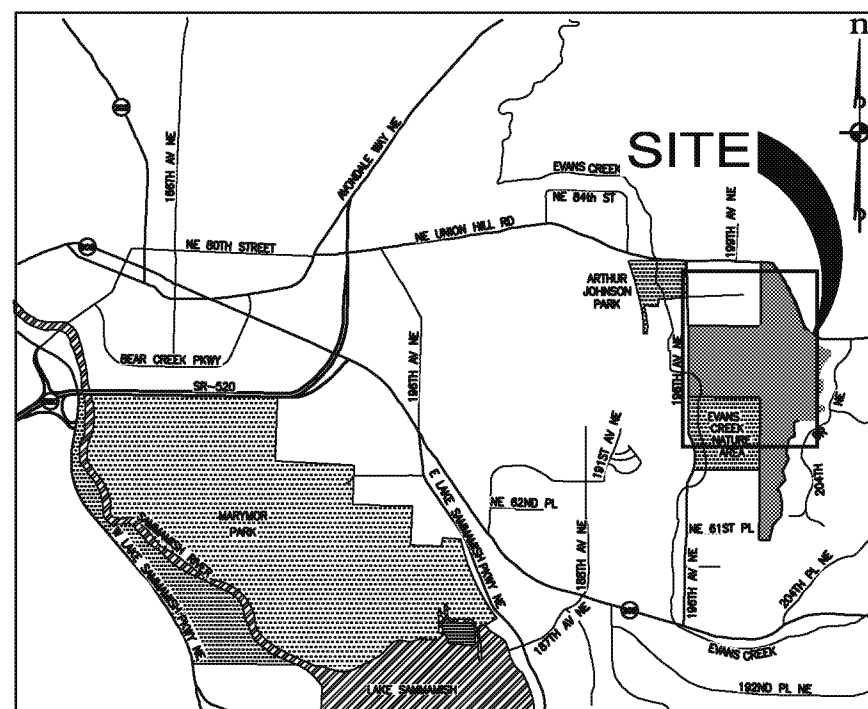
PLAT OF "GUN-SHY RIDGE" AS RECORDED IN VOLUME
148 OF PLATS, PAGES 77 THROUGH 89, UNDER
RECORDING NO. 8910181051.

N 00°14'24" E PER THE PLAT OF "GUN-SHY RIDGE" AS MEASURED BETWEEN THE FOUND SOUTHWEST CORNER OF SECTION AND THE FOUND WEST QUARTER CORNER OF SECTION AS DEPICTED HEREON.

BENCH MARK COR 9157, 2" DIAMETER BRASS DISK
STAMPED "CITY OF REDMOND 9157, 2009"
LOCATION: SET IN CENTER OF A 5 FOOT WIDE CONCRETE
STRIP AT THE NORTH END OF "HISTORIC BRICK ROAD",
+/- 27' SOUTH OF THE INTERSECTION OF NE UNION
HILL RD. AND 196TH AVENUE NE
ELEVATION = 68.32

TBM#1000-REBAR AND CONTROL CAP, EL.64.62'
TBM#2002-PK NAIL AND WASHER, EL.68.32'

Vicinity Map



prepared by



33400 8th Ave S, Suite 205
FEDERAL WAY, WASHINGTON 98003
Phone: (253) 838-6113



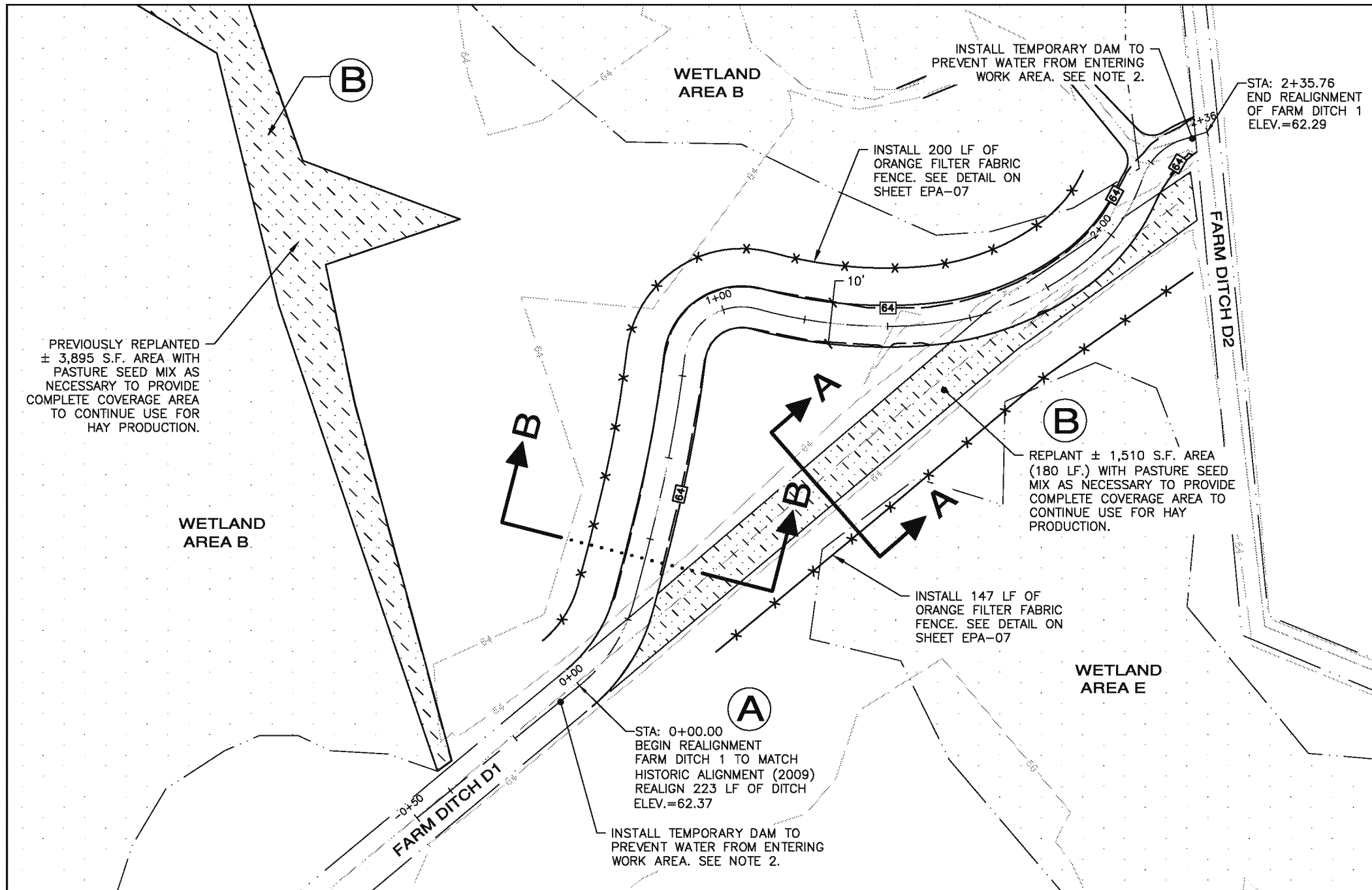
Sheet Index

SHEET NO.	DRAWING NO.	DESCRIPTION
1	EPA-01	EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES – COVER SHEET
2	EPA-02	EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES – SITE SURVEY
3	EPA-03	EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES – WORK PLAN
4	EPA-04	EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES – WORK PLAN
5	EPA-05	EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES – WORK PLAN
6	EPA-06	EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES – WORK PLAN
7	EPA-07	EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES – T.E.S.C. NOTES & DETAILS

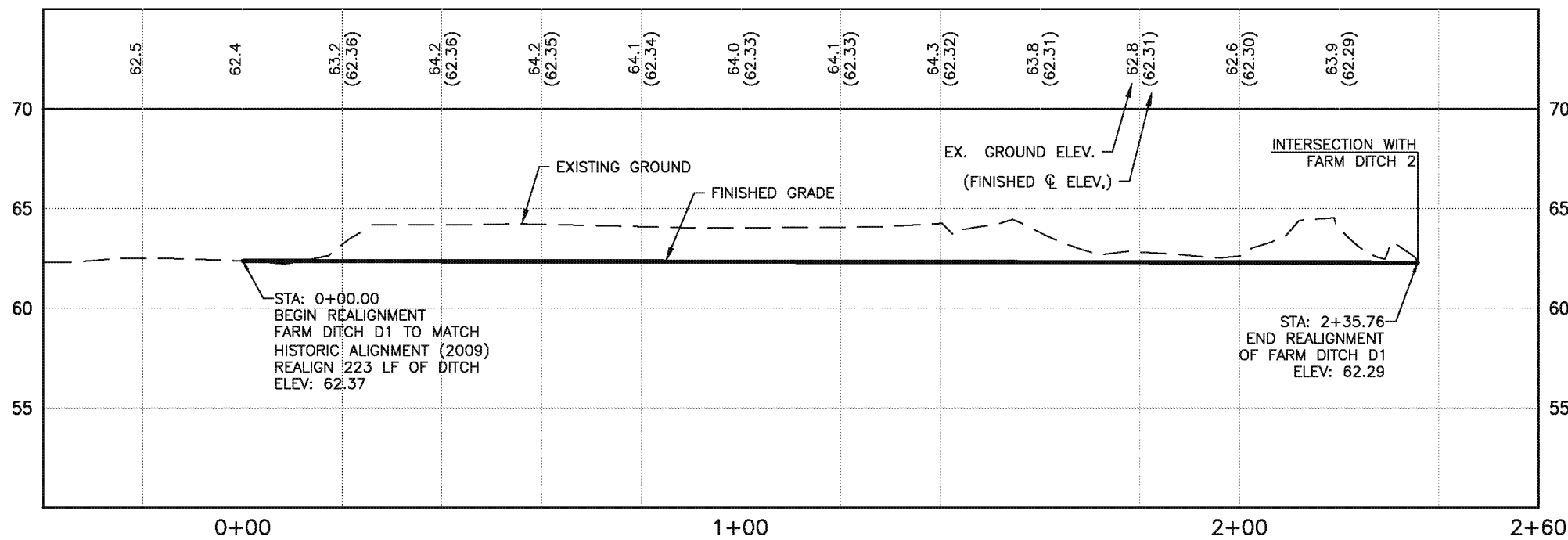
ESM JOB NO. 1359-001-007

SHEET 1 OF 7

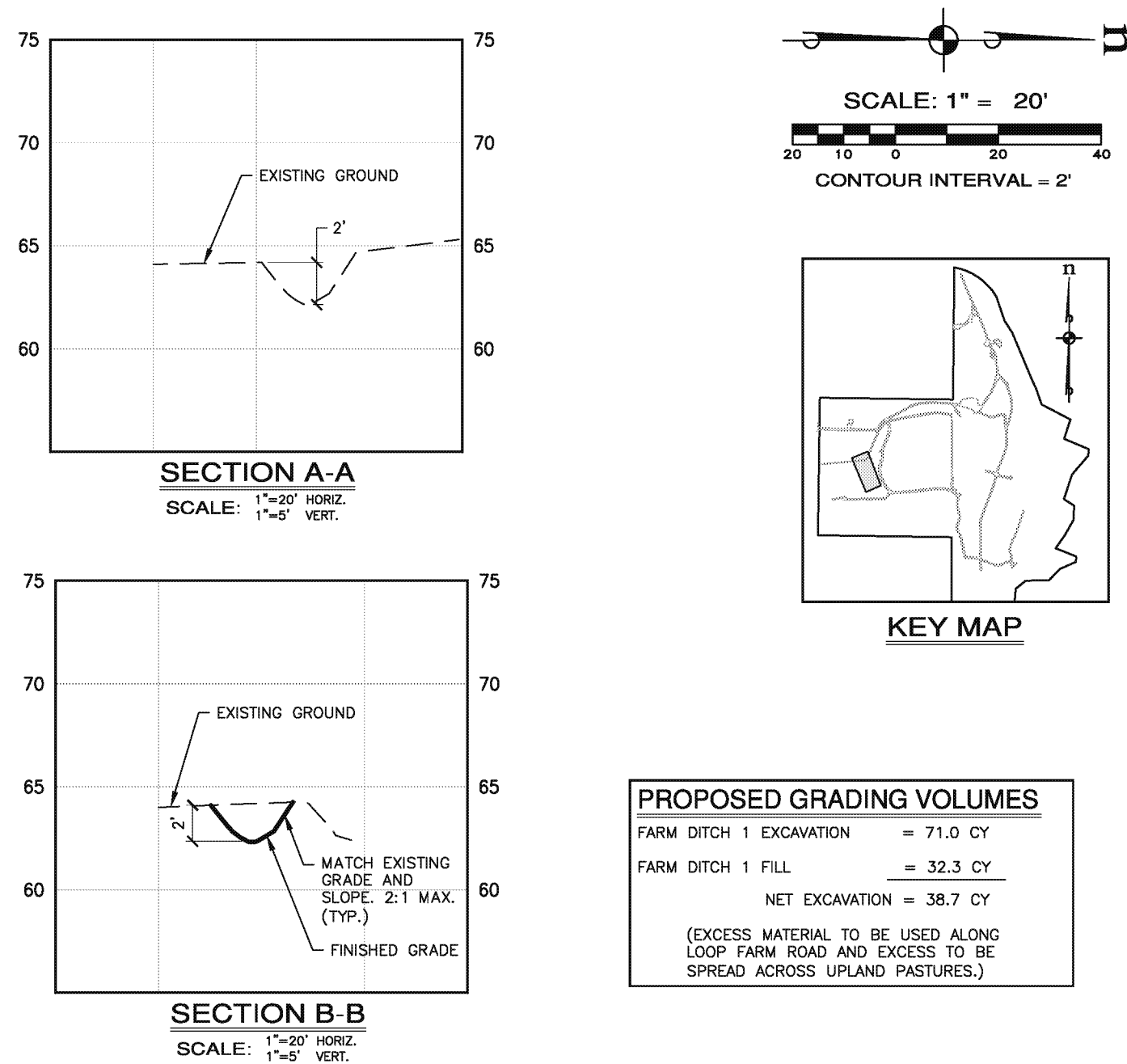
File: \\sarnet\eng\ESM\085\1359\001\007\plot\EPA-final\EPA-03.dwg
Plotted By: Laura Berenzen
Plotted: 07/27/2016 3:43 PM



FARM DITCH 1 (SOUTH FARM DITCH)
SCALE: 1" = 20'



FARM DITCH 1 (SOUTH FARM DITCH)
SCALE: 1"=20' HORIZ.
1"=5' VERT.



NOTE:

- SEE SHEET EPA-07 FOR DETAILS & NOTES.
- TEMPORARY DAMS TO BE CONSTRUCTED OF SAND BAGS, IMPERMEABLE GEOTEXTILE FABRIC AND HOG WIRE.

MITIGATION PROPOSED:

- (A)** REALIGN FARM DITCH D1 TO MATCH HISTORIC ALIGNMENT (2009). REPLANT DISTURBED AREAS WITH PASTURE SEED MIX FOR CONTINUED USE FOR HAY PRODUCTION.
- (B)** REPLANT DISTURBED AREA WITH PASTURE SEED MIX FOR CONTINUED USE FOR HAY PRODUCTION.

SYMBOL LEGEND

- REPLANT WITH PASTURE SEED MIX AS NECESSARY TO PROVIDE COMPLETE COVERAGE. REFER TO SEED CHART THIS SHEET.
- PASTURE AND HAYLAND RENOVATION
- A. CONTROL PROBLEM PERENNIAL WEEDS.
B. PRIOR TO SEEDING, APPLY LIME AND FERTILIZER AT RATES IN ACCORDANCE WITH CURRENT SOIL TESTING.
E. PLANT TO DESIRED PASTURE SPECIES IN EARLY FALL.

SEED CHART		
FORAGE SPECIES ADAPTATION BY USE AND SOIL TYPE		
SOIL TYPE	USE: GRAZING ONLY OR GRAZING & HAY	USE: EXCLUSIVELY FOR HAY
SOMEWHAT POORLY DRAINED IN WINTER AND EARLY SPRING. RECOMMENDED SEEDING SEASON: SPRING OR FALL	TALL FESCUE ANNUAL RYEGRASS PERENNIAL RYEGRASS BIG TREFOIL BIRDSFOOT TREFOIL	TALL FESCUE TIMOTHY BIG TREFOIL BIRDSFOOT TREFOIL
MIXED DRAINAGE: DRY UPLANDS AND WET SWALES RECOMMENDED SEEDING SEASON: FALL	TALL FESCUE ANNUAL RYEGRASS PERENNIAL RYEGRASS BIG TREFOIL BIRDSFOOT TREFOIL MEADOW FOXTAIL	TALL FESCUE ORCHARDGRASS ¹ TIMOTHY BIG TREFOIL BIRDSFOOT TREFOIL MEADOW FOXTAIL ²
1. USE ONLY IN A MIX WITH OTHER SPECIES. 2. SEEDING NOT RECOMMENDED. FOR MANAGEMENT AND REJUVENATION OF EXISTING STANDS, SEE SPECIES INFORMATION. (PASTURE AND HAYLAND RENOVATION FOR WESTERN WASHINGTON AND OREGON, WASHINGTON STATE UNIVERSITY EXTENSION)		

REVISIONS

NO.	DESCRIPTION/DATE	BY

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THE ESTATE OF BARBARA J. NELSON

GUNSHY MANOR FARM

EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES

WORK PLAN

KING COUNTY

WASHINGTON

JOB NO.: 1359-001-012

DWG. NAME: EPA-03

DESIGNED BY: EGL

DRAWN BY: CJR

CHECKED BY:

DATE: 09/02/2016

DATE OF PRINT:

EPA-03

3 OF 7 SHEETS

NOTES:

- SEE SHEET EPA-07 FOR DETAILS AND NOTES.
- MATERIAL TO BE USED ALONG LOOP FARM ROAD WITH EXCESS TO BE HAULED OFFSITE.

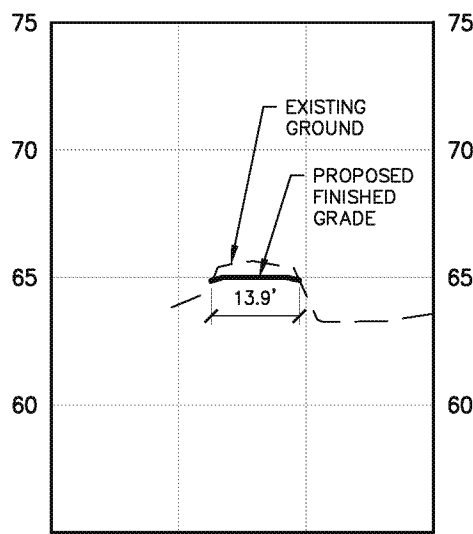
PROPOSED GRADING VOLUMES

SPUR FARM ROAD EXCAVATION (SEE NOTE 2) = 369 CY
SPUR FARM ROAD EMBANKMENT = 845 CY
NET EMBANKMENT = 476 CY

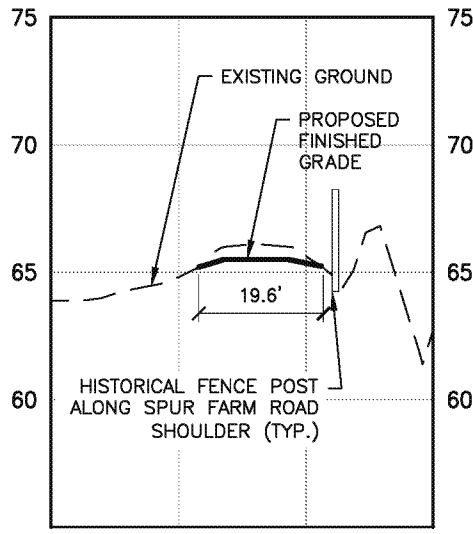
MITIGATION / RESTORATION
SEQUENCE FOR WORK AREAS

- (D) 1. REMOVE PORTIONS OF GRAVEL AND DIRT LAYER FROM PRE-EXISTING COBBLE ROAD SURFACE.
2. HYDROSEED DISTURBED AREAS.
- (E) 1. REMOVE PORTIONS OF GRAVEL AND DIRT LAYER FROM PRE-EXISTING DIRT FARM ROAD SURFACE.
2. HYDROSEED DISTURBED AREAS.

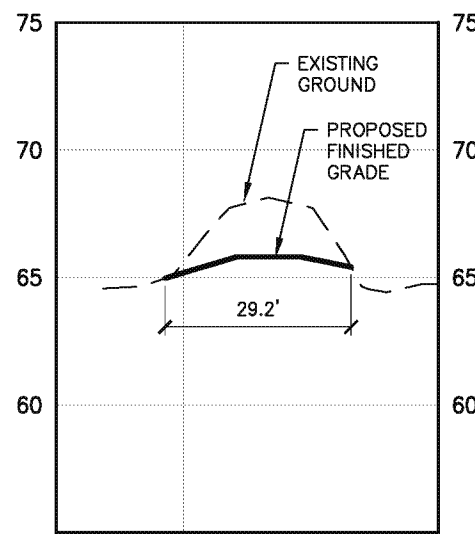
SCALE: 1" = 20'
CONTOUR INTERVAL = 2'



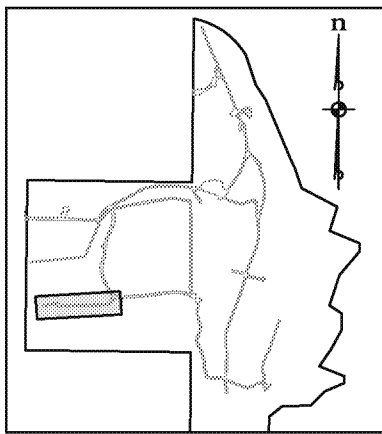
SECTION A-A
SCALE: 1"=20' HORIZ.
1"=5' VERT.



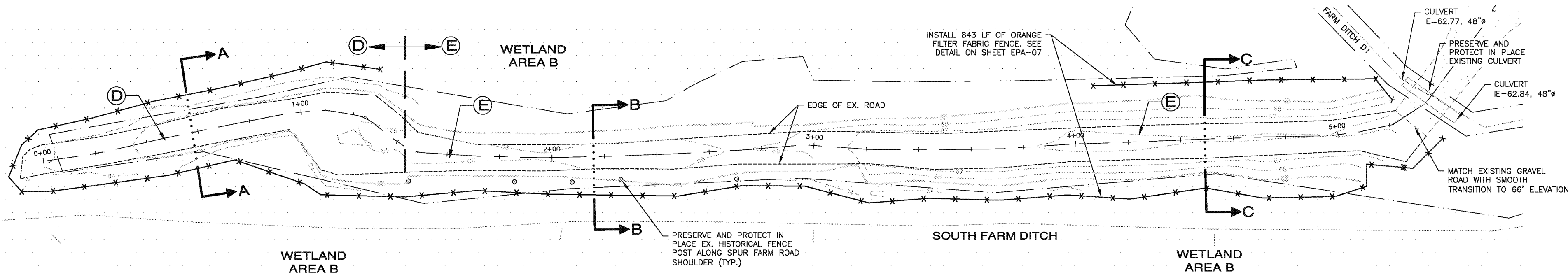
SECTION B-B
SCALE: 1"=20' HORIZ.
1"=5' VERT.



SECTION C-C
SCALE: 1"=20' HORIZ.
1"=5' VERT.

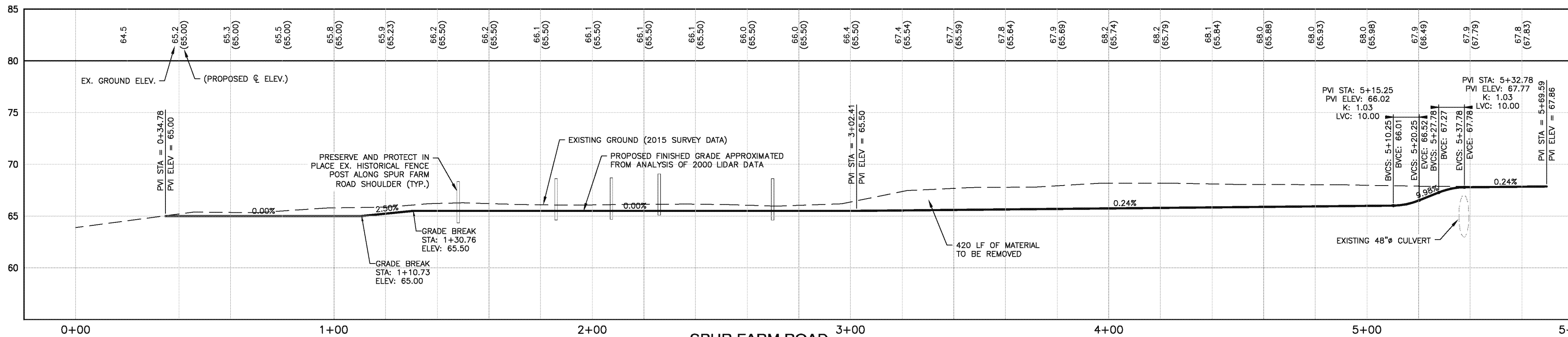


KEY MAP



SPUR FARM ROAD

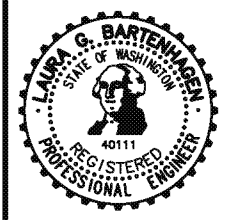
SCALE: 1" = 20'



SPUR FARM ROAD

SCALE: 1"=20' HORIZ.
1"=5' VERT.

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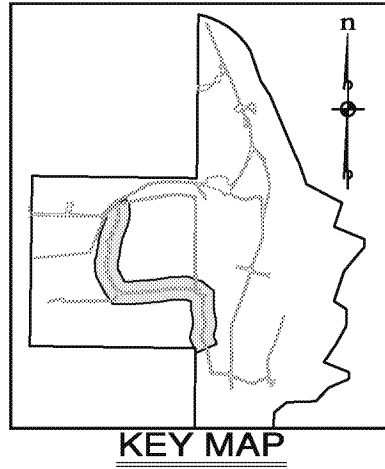
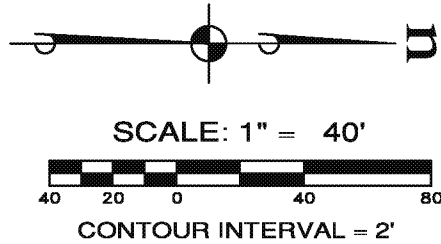
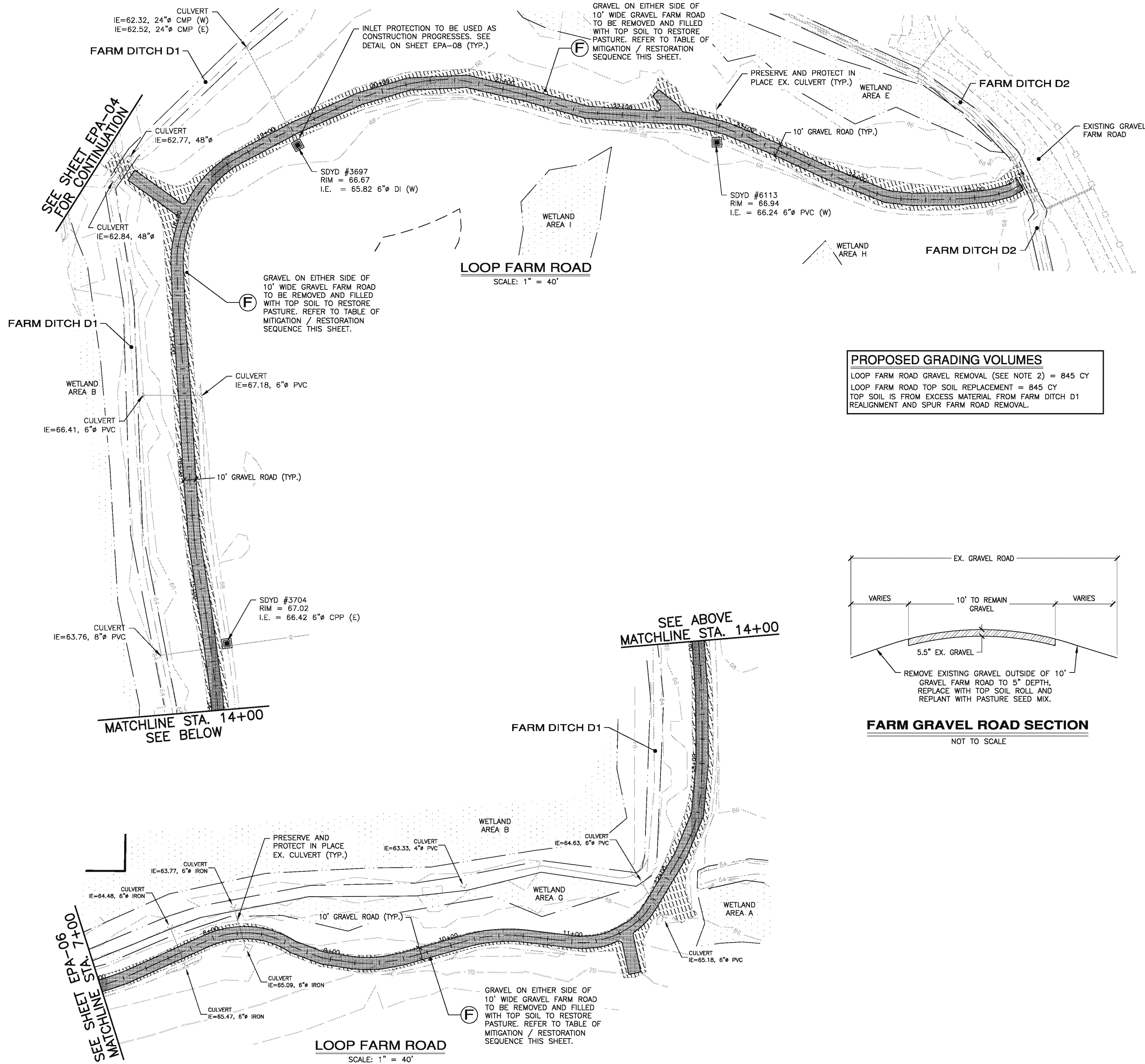
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THE ESTATE OF BARBARA J. NELSON
GUNSHY MANOR FARM
EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES
KING COUNTY
WASHINGTON
WORK PLAN

JOB NO.: 1359-001-012
DWG. NAME: EPA-04
DESIGNED BY: EGL
DRAWN BY: CJR
CHECKED BY:
DATE: 09/02/2016
DATE OF PRINT:

EPA-04
4 OF 7 SHEETS

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Plotted By: Laura Bertram



PROPOSED GRADING VOLUMES

LOOP FARM ROAD GRAVEL REMOVAL (SEE NOTE 2) = 845 CY
LOOP FARM ROAD TOP SOIL REPLACEMENT = 845 CY
TOP SOIL IS FROM EXCESS MATERIAL FROM FARM DITCH D1
REALIGNMENT AND SPUR FARM ROAD REMOVAL.

NOTES:

- SEE SHEET EPA-07 FOR DETAILS AND NOTES.
- GRAVEL TO BE STOCKPILED ONSITE AND USED FOR FARM ROAD MAINTENANCE. SEE SHEET EPA-06.

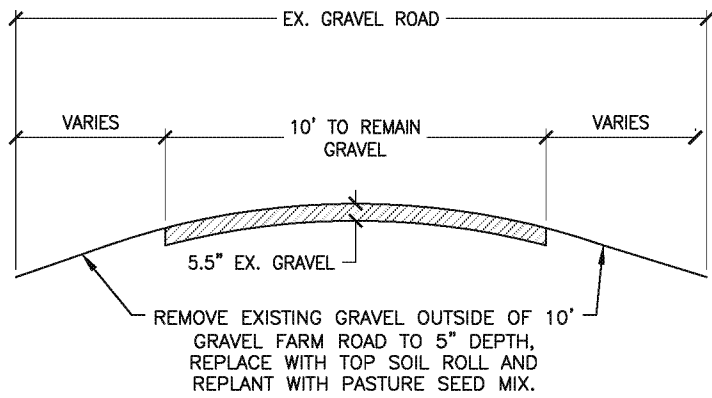
TABLE OF MITIGATION / RESTORATION SEQUENCE FOR WORK AREAS

- (F) REDUCE GRAVEL ROAD TO $\pm 10'$ WIDTH

SYMBOL LEGEND

SYMBOL MITIGATION/RESTORATION SUMMARY

GRAVEL ON EITHER SIDE OF 10' WIDE GRAVEL FARM ROAD TO BE REMOVED AND FILLED WITH TOP SOIL TO RESTORE PASTURE. REFER TO TABLE OF MITIGATION / RESTORATION SEQUENCE THIS SHEET.



FARM GRAVEL ROAD SECTION

NOT TO SCALE

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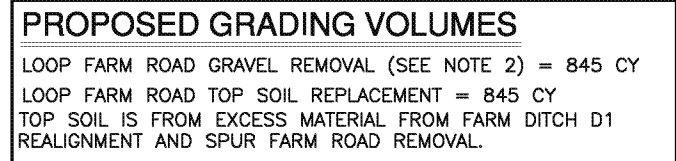
THE ESTATE OF BARBARA J. NELSON

GUNSHY MANOR FARM

EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES

KING COUNTY WASHINGTON


JOB NO.:	1359-001-012
DWG. NAME:	EPA-05
DESIGNED BY:	EGL
DRAWN BY:	CJR
CHECKED BY:	
DATE:	09/02/2016
DATE OF PRINT:	
EPA-05	
5 OF 7 SHEETS	

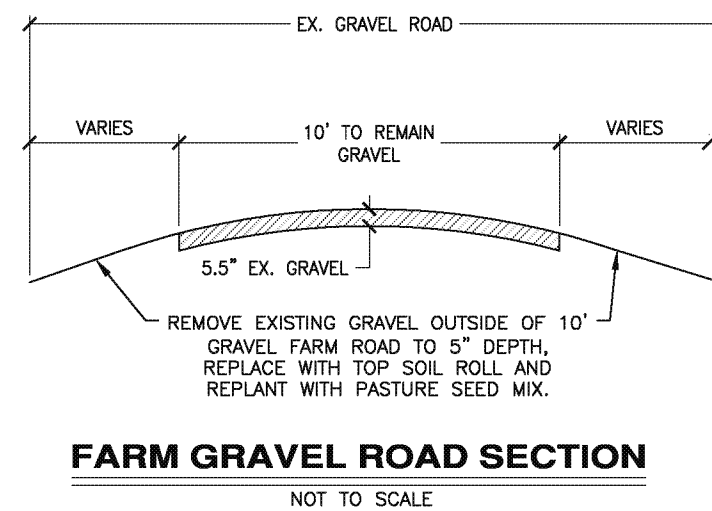
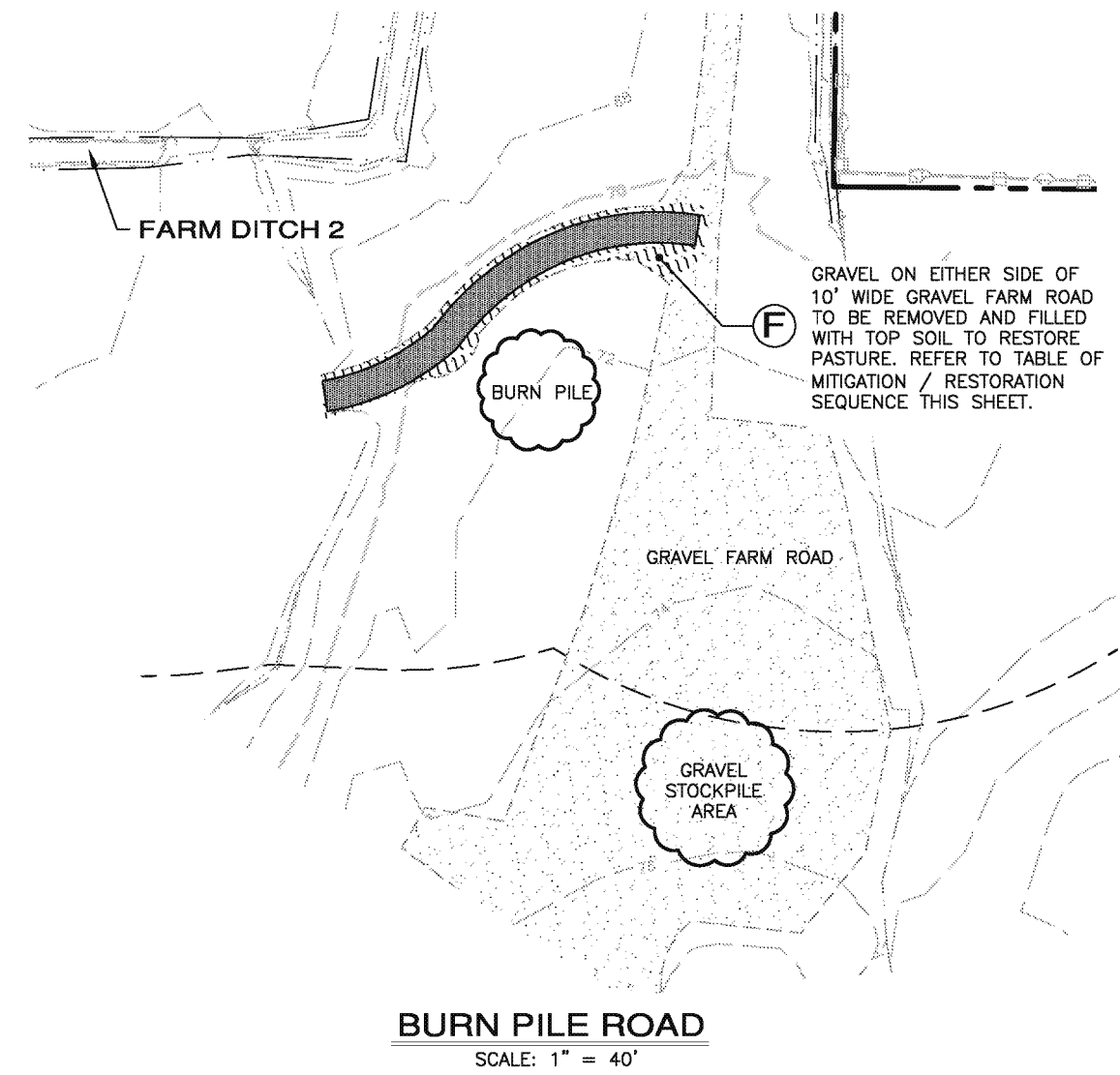


1. SEE SHEET EPA-07 FOR DETAILS AND NOTES.
2. GRAVEL TO BE STOCKPILED ONSITE NEAR BURN PILE ROAD AND USED FOR FARM ROAD MAINTENANCE. SEE EXHIBIT BELOW.

Ⓡ REDUCE GRAVEL ROAD TO ±10' WIDTH

SYMBOL	MITIGATION/RESTORATION SUMMARY
--------	--------------------------------

 GRAVEL ON EITHER SIDE OF 10' WIDE GRAVEL FARM ROAD TO BE REMOVED AND FILLED WITH TOP SOIL TO RESTORE PASTURE. REFER TO TABLE OF MITIGATION / RESTORATION SEQUENCE THIS SHEET.



EROSION/SEDIMENTATION CONTROL NOTES:

1. APPROVAL OF THIS EROSION AND SEDIMENTATION CONTROL (ESC) PLAN DOES NOT CONSTITUTE AN APPROVAL OF PERMANENT ROAD OR DRAINAGE DESIGN (E.G. SIZE AND LOCATION OF ROADS, PIPES, RESTRICTORS, CHANNELS, RETENTION FACILITIES, UTILITIES, ETC.)
2. THE IMPLEMENTATION OF THESE ESC PLANS AND THE CONSTRUCTION, MAINTENANCE, REPLACEMENT, AND UPGRADING OF THESE ESC FACILITIES IS THE RESPONSIBILITY OF THE APPLICANT/ESC SUPERVISOR UNTIL ALL CONSTRUCTION IS APPROVED.
3. THE BOUNDARIES OF THE CLEARING LIMITS SHOWN ON THIS PLAN SHALL BE CLEARLY FLAGGED BY SURVEY TAPE OR FENCING, IF REQUIRED, PRIOR TO CONSTRUCTION (SWDM APPENDIX D). DURING THE CONSTRUCTION PERIOD, NO DISTURBANCE BEYOND THE CLEARING LIMITS SHALL BE PERMITTED. THE CLEARING LIMITS SHALL BE MAINTAINED BY THE APPLICANT/ESC SUPERVISOR FOR THE DURATION OF CONSTRUCTION.
4. THE ESC FACILITIES SHOWN ON THIS PLAN MUST BE CONSTRUCTED PRIOR TO OR IN CONJUNCTION WITH ALL CLEARING AND GRADING SO AS TO ENSURE THAT THE TRANSPORT OF SEDIMENT TO SURFACE WATERS, DRAINAGE SYSTEMS, AND ADJACENT PROPERTIES IS MINIMIZED.
5. THE ESC FACILITIES SHOWN ON THIS PLAN ARE THE MINIMUM REQUIREMENTS FOR ANTICIPATED SITE CONDITIONS. DURING THE CONSTRUCTION PERIOD, THESE ESC FACILITIES SHALL BE UPGRADED AS NEEDED FOR UNEXPECTED STORM EVENTS AND MODIFIED TO ACCOUNT FOR CHANGING SITE CONDITIONS (E.G. ADDITIONAL COVER MEASURES, ADDITIONAL SUMP PUMPS, RELOCATION OF DITCHES AND SILT FENCES, PERIMETER PROTECTION ETC.).
6. THE ESC FACILITIES SHALL BE INSPECTED DAILY BY THE APPLICANT/ESC SUPERVISOR AND MAINTAINED TO ENSURE CONTINUED PROPER FUNCTIONING. WRITTEN RECORDS SHALL BE KEPT OF WEEKLY REVIEWS OF THE ESC FACILITIES.
7. ANY AREAS OF EXPOSED SOILS, INCLUDING ROADWAY EMBANKMENTS, THAT WILL NOT BE DISTURBED FOR SEVEN DAYS DURING THE DRY SEASON SHALL BE IMMEDIATELY STABILIZED WITH THE APPROVED ESC COVER METHODS (E.G., SEEDING, MULCHING, PLASTIC COVERING, ETC.).
8. ANY AREA NEEDING ESC MEASURES, NOT REQUIRING IMMEDIATE ATTENTION, SHALL BE ADDRESSED WITHIN SEVEN (7) DAYS.
9. THE ESC FACILITIES ON INACTIVE SITES SHALL BE INSPECTED AND MAINTAINED A MINIMUM OF ONCE A MONTH OR WITHIN 24 HOURS FOLLOWING A STORM EVENT.
10. AT NO TIME SHALL MORE THAN ONE (1) FOOT OF SEDIMENT BE ALLOWED TO ACCUMULATE WITHIN A CATCH BASIN. ALL CATCH BASINS AND CONVEYANCE LINES SHALL BE CLEANED PRIOR TO PAVING. THE CLEANING OPERATION SHALL NOT FLUSH SEDIMENT-LADEN WATER INTO THE DOWNSTREAM SYSTEM.
11. COVER MEASURES WILL BE APPLIED IN CONFORMANCE WITH APPENDIX O OF THE SURFACE WATER DESIGN MANUAL.
12. PRIOR TO THE BEGINNING OF THE WET SEASON (OCT. 1), ALL DISTURBED AREAS SHALL BE REVIEWED TO IDENTIFY WHICH ONES CAN BE SEEDED IN PREPARATION FOR THE WINTER RAINS. DISTURBED AREAS SHALL BE SEEDED WITHIN ONE WEEK OF THE BEGINNING OF THE WET SEASON. A SKETCH MAP OF THOSE AREAS TO BE SEEDED AND THOSE AREAS TO REMAIN UNCOVERED SHALL BE SUBMITTED TO THE DPER INSPECTOR FOR REVIEW.

STORMWATER POLLUTION PREVENTION AND SPILL NOTES

1. NO LIQUIDS, INCLUDING PETROLEUM PRODUCTS, FUEL, SOLVENTS DETERGENTS, PAINT, PESTICIDES, CONCRETE ADMIXTURES, FORM OILS, ETC. SHALL BE STORED ON SITE.
2. CONSTRUCTION MATERIALS AND WASTES SHALL BE STORED AT THE POTENTIAL STOCKPILE AREA SHOWN ON THESE PLANS.
3. ALL FUELING SHALL BE PROVIDED BY A FUELING TRUCK. NO FUEL SHALL BE STORED ON SITE.
4. THE CONTRACTOR SHALL DESIGNATE A PERSON AS THE RESPONSIBLE REPRESENTATIVE IN CHARGE OF EROSION CONTROL AND MAINTENANCE OF ALL EROSION CONTROL AND STORMWATER POLLUTION PREVENTION FACILITIES.

EXPOSED SOIL PROTECTION NOTE:

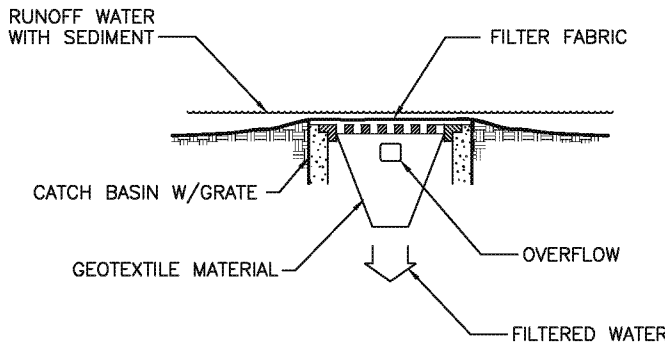
AREAS CLEARED FOR GRADING ACTIVITIES WILL BE TEMPORARILY STABILIZED BY ONE OF THE FOLLOWING METHODS WHICH ARE BASED ON PERIOD EXPOSED SOILS ARE LEFT UNWORKED:

- IF EXPOSED SOILS ARE LEFT UNWORKED FOR MORE THAN 7 DAYS DURING THE DRY SEASON BUT LESS THAN 30 DAYS, MULCHING SHALL BE APPLIED.
- IF EXPOSED SOILS ARE LEFT UNWORKED FOR MORE THAN 30 DAYS, TEMPORARY OR PERMANENT SEEDING SHALL BE APPLIED.

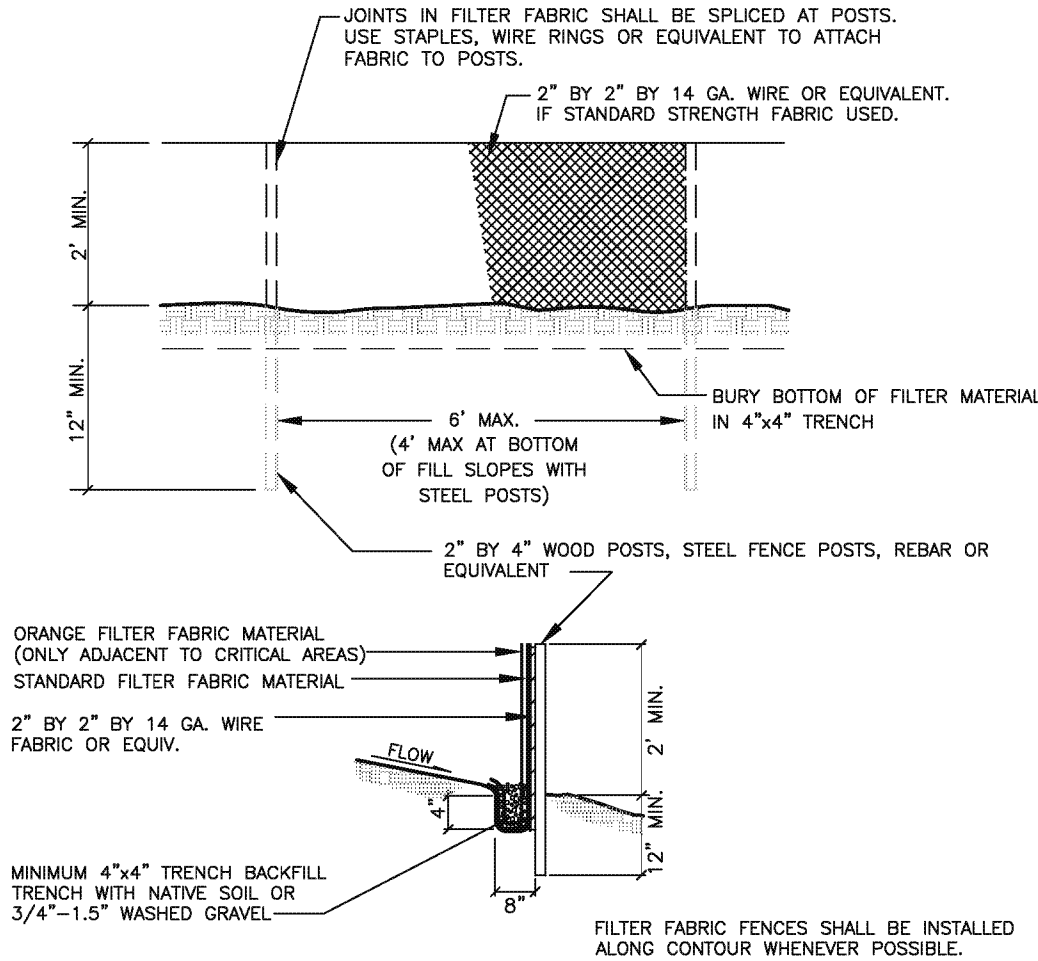
FOLLOWING FINAL OR FINE GRADING ACTIVITY SEED SHALL BE PLACED ON EXPOSED SOIL TO PROVIDE PERMANENT AND IMMEDIATE EROSION PROTECTION. DUST CONTROL WILL BE APPLIED AS NECESSARY DURING DRY PERIODS.

CONSTRUCTION SEQUENCE

1. PRE-CONSTRUCTION MEETING.
2. POST SIGN WITH NAME AND PHONE NUMBER OF ESC SUPERVISOR MAY BE CONSOLIDATED WITH THE REQUIRED NOTICE OF CONSTRUCTION SIGN.
3. INSTALL CATCH BASIN PROTECTION.
4. INSTALL PERIMETER PROTECTION (ORANGE FILTER FENCE).
5. INSTALL TEMPORARY DAMS AT NORTH AND SOUTH ENDS OF FARM DITCH DI WORK AREA.
6. MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH KING COUNTY STANDARDS AND MANUFACTURER'S RECOMMENDATIONS.
7. RELOCATE EROSION CONTROL MEASURES OR INSTALL NEW MEASURES SO THAT AS SITE CONDITIONS CHANGE THE EROSION AND SEDIMENT CONTROL IS ALWAYS IN ACCORDANCE WITH THE KING COUNTY EROSION AND SEDIMENT CONTROL STANDARDS.
8. COVER ALL AREAS THAT WILL BE UNWORKED FOR MORE THAN SEVEN DAYS DURING THE DRY SEASON.
9. STABILIZE ALL AREAS THAT REACH FINAL GRADE WITHIN SEVEN DAYS.
10. SEED ANY AREAS TO REMAIN UNWORKED FOR MORE THAN 30 DAYS.
11. UPON COMPLETION OF THE PROJECT, ALL DISTURBED AREAS MUST BE STABILIZED AND BMPS REMOVED IF APPROPRIATE.



INLET PROTECTION DETAIL
NOT TO SCALE



1. ANY DAMAGE SHALL BE REPAIRED IMMEDIATELY.
2. IF CONCENTRATED FLOWS ARE EVIDENT UPHILL OF THE FENCE, THEY MUST BE INTERCEPTED AND CONVEYED TO A SEDIMENT TRAP OR POND.
3. IT IS IMPORTANT TO CHECK THE UPHILL SIDE OF THE FENCE FOR SIGNS OF THE FENCE CLOGGING AND ACTING AS A BARRIER TO FLOW AND THEN CAUSING CHANNELIZATION OF FLOWS PARALLEL TO THE FENCE. IF THIS OCCURS, REPLACE THE FENCE AND/OR REMOVE THE TRAPPED SEDIMENT.
4. SEDIMENT MUST BE REMOVED WHEN THE SEDIMENT IS 6" HIGH.
5. IF THE FILTER FABRIC HAS DETERIORATED DUE TO ULTRAVIOLET BREAKDOWN, IT SHALL BE REPLACED.

TYPICAL ORANGE FILTER FENCE DETAIL
NOT TO SCALE

- INSTALL ONLY IF THERE IS WATER IN THE DITCH AND DOWNSTREAM OF WORK AREA.

REVISIONS		
NO.	DESCRIPTION/DATE	BY



ESM CONSULTING ENGINEERS, LLC
33400 8th Ave S, Suite 205
Federal Way, WA 98003

REGISTERED PROFESSIONAL ENGINEER
WASHINGTON
FEDERAL WAY
EVERETT

www.esmcivil.com

Civil Engineering
Public Works

Land Surveying
Project Management

Land Planning
Landscape Architecture

THE ESTATE OF BARBARA J. NELSON

GUNSHY MANOR FARM
EXHIBIT "C" SITE SURVEY, SKETCH, AND/OR DRAWING DEPICTING SITE'S FEATURES AND BOUNDARIES
WASHINGTON
KING COUNTY
T.E.S.C. NOTES & DETAILS

JOB NO.:	1359-001-012
DWG. NAME:	EPA-07
DESIGNED BY:	EGL
DRAWN BY:	CJR
CHECKED BY:	
DATE:	09/02/2016
DATE OF PRINT:	

EPA-07



NOTES

1. SURVEY AND SITE PLAN PROVIDED BY ESM CONSULTING ENGINEERS, LLC.
2. SOURCE DRAWING WAS MODIFIED BY TALASAEA CONSULTANTS FOR VISUAL ENHANCEMENT.
3. THIS VEGETATION PLAN IS AN ATTACHMENT TO THE FINAL RESTORATION AND MITIGATION WORK PLAN, PREPARED IN SEPTEMBER 2016.

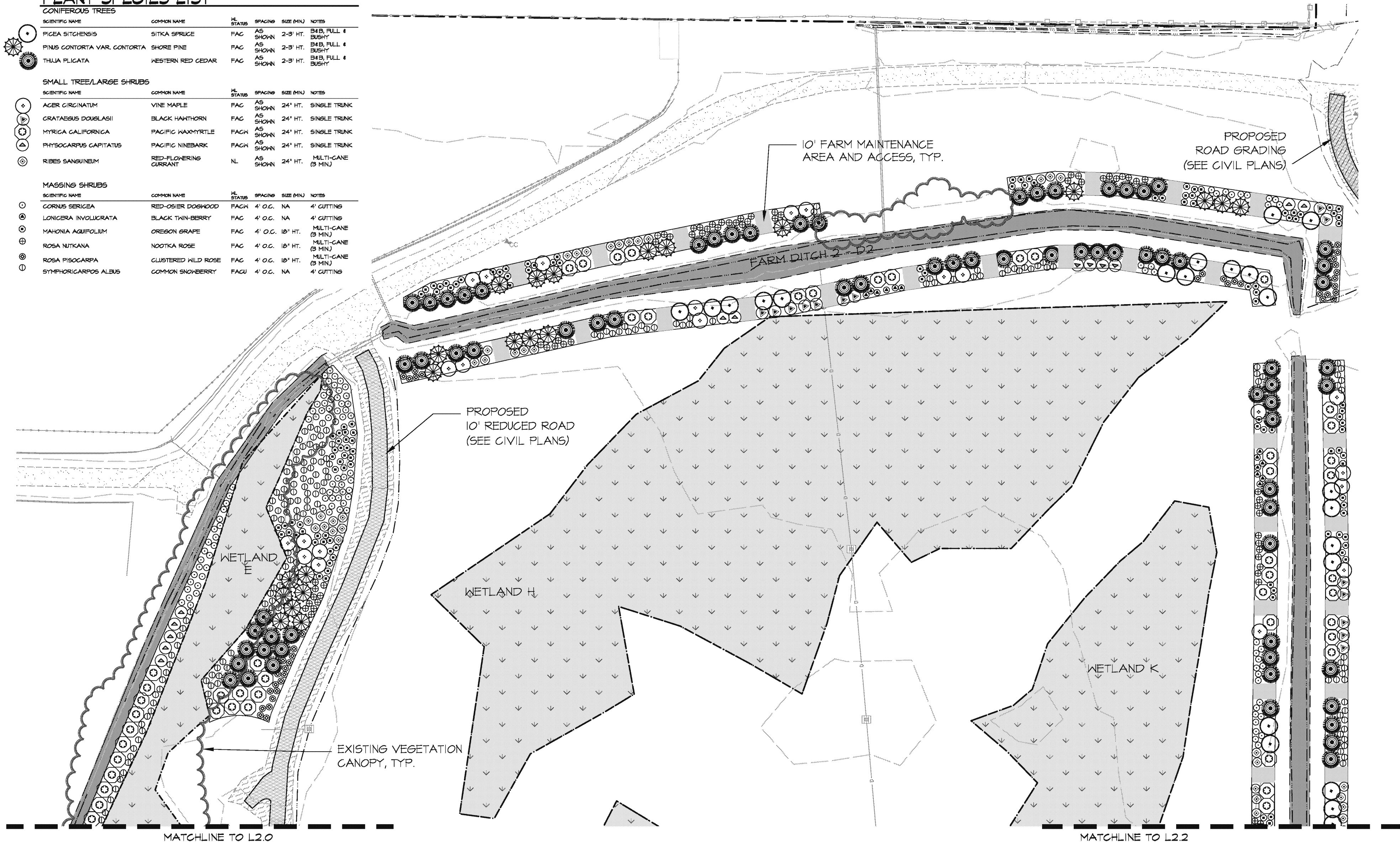


SCIENTIFIC NAME	COMMON NAME	PL STATUS	SPACING	SIZE (MN)	NOTES
PICEA SITCHENSIS	SITKA SPRUCE	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY
PINUS CONTORTA VAR. CONTORTA	SHORE PINE	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY
THUJA PLICATA	WESTERN RED CEDAR	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY

SCIENTIFIC NAME	COMMON NAME	PL STATUS	SPACING	SIZE (MIN)	NOTES
ACER CIRCINATUM	VINE MAPLE	FAC	AS SHOWN	24" HT.	SINGLE TRUNK
CORAEUS DOUGLASII	BLACK HAWTHORN	FAC	AS SHOWN	24" HT.	SINGLE TRUNK
MYRICA CALIFORNICA	PACIFIC MAXMYRTLE	FACN	AS SHOWN	24" HT.	SINGLE TRUNK
PHYSOCARPUS CAPITATUS	PACIFIC NINEBARK	FACN	AS SHOWN	24" HT.	SINGLE TRUNK
RIBES SANGUINEUM	RED-FLOWERING CURRANT	NL	AS SHOWN	24" HT.	MULTI-CANE (3 MIN)

☐ A
☐ B
☐ C
☐ D
☐ E
☐ F

SCIENTIFIC NAME	COMMON NAME	PL. STATUS	SPACING	SIZE (IN)	NOTES
CORNUS SERICEA	RED-OSIER DOGWOOD	FAC	4' O.G.	NA	4' CUTTING
LONICERA INVOLUCRATA	BLACK TWIN-BERRY	FAC	4' O.G.	NA	4' CUTTING
MAHONIA AQUIFOLIUM	OREGON GRAPE	FAC	4' O.G.	18" HT.	MULTI-CANE (3 MIN)
ROSA NUTKANA	NOOTKA ROSE	FAC	4' O.G.	18" HT.	MULTI-CANE (3 MIN)
ROSA PISOCARPA	CLUSTERED WILD ROSE	FAC	4' O.G.	18" HT.	MULTI-CANE (3 MIN)
SYMPHORICARPOS ALEUS	COMMON SNOWBERRY	FACU	4' O.G.	NA	4' CUTTING



GRAPHIC SCALE
(IN FEET)

0 15 30 60

SCALE: 1"=30'

NORTH

----- PROPERTY LINE

EXISTING WETLAND

1. SURVEY AND SITE PLAN PROVIDED BY ESM CONSULTING ENGINEERS, LLC.
2. SOURCE DRAWING WAS MODIFIED BY TALASAEA CONSULTANTS FOR VISUAL ENHANCEMENT.
3. THIS VEGETATION PLAN IS AN ATTACHMENT TO THE FINAL RESTORATION AND MITIGATION WORK PLAN, PREPARED IN SEPTEMBER 2016.



Know what's **below**.
Call before you dig.

EXHIBIT "D" - FINAL VEGETATION PLAN
PLANTING PLAN
GUNSHY MANOR FARM
REDMOND, WASHINGTON

TALASAE
CONSULTANTS, INC.
Resource & Environmental Planning
15000 Bear Creek Road Northeast - Woodinville, Washington 98077
Bus (425) 861-7550 - Fax (425) 861-7649

[illegible]

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 E:\DRAWING\1100-1199\TAL1147\TAL-1147WP B-30-2016.dwg
 Plotted September 2, 2016

Message

From: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Sent: 6/3/2016 10:02:04 PM
To: Lori Terry [lori.terry@foster.com]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: RE: Estate of Nelson (Gunshy Manor) - EPA Settlement Orders - Confidential Settlement Communication; Subject to FRE 408 and ER 408
Attachments: Gunshy Agreed Order Draft.docx

Lori:

Attached for your review, please find a copy of Ecology's Agreed Order for Gunshy Manor. Most of the Order is standard boilerplate that has been vetted through Ecology management and the AG's Office, so the only section that is open for discussion, should you have any concerns, is the Implementation section of the Scope of Work.

Thanks for your patience and assistance with all of this. Assuming the Agreed Order is acceptable to you and Mr. Nelson, do you have a date in mind for signing?

Have a good weekend.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [mailto:lori.terry@foster.com]
Sent: Thursday, June 02, 2016 8:04 AM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>
Subject: RE: Estate of Nelson (Gunshy Manor) - EPA Settlement Orders - Confidential Settlement Communication; Subject to FRE 408 and ER 408

Thanks, Paul.

Lori Terry Gregory
ATTORNEY | FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3000 | Seattle, WA 98101
P 206-447-8902 | E lori.terry@foster.com

From: Anderson, Paul S. (ECY) [mailto:paan461@ECY.WA.GOV]
Sent: Thursday, June 02, 2016 7:03 AM
To: Lori Terry
Subject: RE: Estate of Nelson (Gunshy Manor) - EPA Settlement Orders - Confidential Settlement Communication; Subject to FRE 408 and ER 408

Lori:

Thanks for providing copies of the EPA documents. I just had internal approval of Ecology's draft Agreed Order yesterday and will get a copy to you by tomorrow for your review (I have a couple of remaining edits).

We are very close to wrapping this up. Thanks for all of your help!

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [<mailto:lori.terry@foster.com>]
Sent: Wednesday, June 01, 2016 4:03 PM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>
Cc: 'Szalay, Endre' <Szalay.Endre@epa.gov>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>
Subject: Estate of Nelson (Gunshy Manor) - EPA Settlement Orders - Confidential Settlement Communication; Subject to FRE 408 and ER 408

Paul,


Attached are copies of the Orders and exhibits settling the EPA Clean Water Act enforcement matter, which have been signed by my client. I believe Endre Szalay has already provided you with drafts. My understanding is that the Orders are in the process of being signed by Ed Kowalski and then will go through a 30-day public comment period. Exhibit "C" contains the Ecology mitigation area. I am hopeful that you will be able to provide me with a draft of the RCW 90.48 Order soon so that we can resolve the Ecology matter within the same timeframe as we obtain final EPA orders. Feel free to give me a call or email if that would be helpful. Thank you.

Lori

Lori Terry Gregory
ATTORNEY | FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3000 | Seattle, WA 98101
P 206-447-8902 | E lori.terry@foster.com

SEA – 401/WETLAND ADMINISTRATIVE ORDER

Instructions

- Remember to spell out the acronym for RCW (Revised Code of Washington) and WAC (Washington Administrative Code) the first time used in the cover letters and notices.
- Instructions are given in [turquoise] highlighted text. Remember to delete the instructions before printing or sending.
- [Yellow] highlighted text is a placeholder to insert information. Remember to remove highlighting before printing or sending. Note: Headers are not highlighted but should still be filled in.
- To remove the highlights, select all (Click Ctrl A), then click on the down arrow on the highlight icon  on the **Home** tab and select no color.
- Print on letterhead.
- Use certified mail if specified in the boilerplate.

June XX, 2016

Mr. William C. "Buff" Nelson
Estate of Barbara J. Nelson aka
GUNSHY MANOR
16508 NE 79th Street
Redmond, WA 98052

Re: Agreed Order

Administrative Order Docket #	13182
Site Name	Estate of Barbara J. Nelson aka GUNSHY MANOR, King County Located Near 7412 196111 Ave NE (Tax Parcel No. 0825069012), unincorporated King County, WA

Dear Mr. Nelson:

Enclosed is Agreed Order number 13182 between the Department of Ecology and Estate of Barbara J. Nelson aka GUNSHY MANOR to achieve compliance with the state Water Pollution Control Act, RCW 90.48. All correspondence relating to this document should be directed to Paul Anderson at the Department of Ecology, Northwest Regional Office, Paul.S.Anderson@ecy.wa.gov.

Sincerely,

Gordon White, Program Manager
Shorelands and Environmental Assistance Program

Enclosures: Administrative Order Docket #13182

Mr. William C. "Buff" Nelson

June XX, 2016

Page [PAGE * MERGEFORMAT]

By certified mail [number]

e-cc: Kerry Carroll and Paul Anderson, Ecology
Sonia Wolfman, Office of the Attorney General
Endre Szalay and Krista Rave-Perkins, U.S. Environmental Protection Agency
Jerry Gregory, U.S. Army Corps of Engineers
Nick Gillen, King County
Lori Terry Gregory and Stephanie Weir, Foster Pepper, PLLC

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF AN)	ADMINISTRATIVE ORDER
ADMINISTRATIVE ORDER)	DOCKET #13182
AGAINST)	
Estate of Barbara J. Nelson aka GUNSHY)	
MANOR		

To: Mr. William C. "Buff" Nelson
Estate of Barbara J. Nelson aka GUNSHY MANOR
16508 NE 79th Street
Redmond, WA 98052

Administrative Order Docket #	13182
Site Name	Estate of Barbara J. Nelson aka GUNSHY MANOR located in King County
Site Location	Near 7412 196 th Ave NE, unincorporated King County, WA
Site Description	The discharge of polluting matter within state waters on the Estate of Barbara J. Nelson aka GUNSHY MANOR property included the physical alteration of a tributary and associated wetlands, adjacent to Evans Creek in the Bear Creek/Sammamish River watershed, through mechanized clearing and the placement of fill that altered the land surface. This activity degraded the water quality, hydrologic and habitat functions of the tributary and wetlands.

This is an Agreed Order between the Department of Ecology (Department) and Estate of Barbara J. Nelson aka GUNSHY MANOR to achieve compliance with Chapter 90.48 Revised Code of Washington (RCW) and Chapter 173-201A Washington Administrative Code (WAC) by taking certain actions which are described below for the discharge of polluting matters into waters of the state at the subject property.

RECONGNITION OF THE DEPARTMENTS JURISDICTION

This Agreed Order is issued pursuant to the authority vested in the Department by the Federal Water Pollution Control Act (FWPCA), 33 USC sec 1311, et seq. and by Chapter 90.48 RCW.

RCW 90.48.030 provides that the Department shall have the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington.

GUNSHY MANOR agrees to undertake all actions required of him by the terms and conditions of this Agreed Order and not to contest the Department's jurisdiction and authority to administer this Agreed Order.

STIPULATED FACTS

RCW 90.48.120(2) authorizes the Department to issue administrative orders requiring compliance whenever it determines that a person has violated or created a substantial potential to violate any provision of Chapter 90.48 RCW. The Department's determination that a violation has occurred is based on the following facts:

On or before February 18, 2015 GUNSHY MANOR undertook earthwork (excavation, filling and grading) within wetlands and a tributary to Evans Creek was altered on the GUNSHY MANOR site without authorization from Ecology. The discharge of polluting matter within state waters on the GUNSHY MANOR property included the physical alteration of a tributary and associated wetlands adjacent to Evans Creek in the Bear Creek/Sammamish River watershed, through mechanized clearing, excavation and the placement of fill that altered the land surface. This activity degraded the water quality, hydrologic and habitat functions of the tributary and wetlands. This unauthorized mechanized clearing, filling and grading within waters of the state on the GUNSHY MANOR site is a violation of RCW 90.48. Under RCW 90.48.080, it is unlawful to discharge polluting matters into waters of the state without authorization. Physical alteration to the wetlands and the tributary to Evans Creek due to unauthorized activities is also a violation of the anti-degradation policy, WAC 173-201A-300.

SCOPE OF WORK AND SCHEDULE

For these reasons, and in accordance with RCW 90.48.120(2) IT IS AGREED, that GUNSHY MANOR shall take the following actions. These actions are necessary to satisfy the requirements of Chapter 173-201A WAC. GUNSHY MANOR has participated in defining these actions and the schedule by which they shall be completed.

Implementation

1. GUNSHY MANOR shall comply with the all of the provisions of the Environmental Protection Agency (EPA) Administrative Order on Consent (AOC); DOCKET NO. CWA-10-2016-0087, herein incorporated by reference and attached as Appendix A.
2. GUNSHY MANOR's failure to timely and appropriately implement any provision of the AOC shall be deemed a violation of this Agreed Order.
3. GUNSHY MANOR or their successors in interest shall provide access to the site upon request by the Department and its agents for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Agreed Order are being met.

4. Within 90 days of the date this Agreed Order is signed, GUNSHY MANOR shall provide the Department with a Final Restoration and Mitigation Work Plan consistent with the documents entitled, "Draft Work Plan" (dated October 14, 2015) and "Draft Vegetation Plan" (dated February 4, 2016) and the elements described in § 5.2 of the AOC. The Department shall endeavor to provide any comments on the Final Restoration and Mitigation Work Plan to EPA and GUNSHY MANOR within 30 days.
5. The on-site mitigation/restoration work described in the approved Final Restoration and Mitigation Work Plan shall be implemented no later than March 31, 2017.
6. Within fourteen days of completing the on-site mitigation activities described in the approved Final Restoration and Mitigation Work Plan, GUNSHY MANOR must submit a Completion Report to the Department as described in § 5.6 of the AOC.

PROHIBITION OF NEW WORK WITHIN WATERS OF THE STATE

GUNSHY MANOR is prohibited from undertaking regulated activities (i.e., mechanized clearing, filling, excavating, draining, or any discharge of pollutants) within waters of the state or their associated buffers on the subject property, except for approved restoration work under this Agreed Order, until the actions defined in Scope of Work in this Agreed Order and the AOC are completed and the Department has issued a written Order of Satisfaction.

PROGRESS REPORTING

GUNSHY MANOR shall provide regular progress reports to the Department in accordance with the schedule set forth in §5.7 of the AOC.

GUNSHY MANOR shall promptly notify the Department of any occurrence which may result in non-compliance with the requirements of this Agreed Order. Such notification shall state the nature of the potential non-compliance, the reason(s) therefore and the actions proposed by GUNSHY MANOR to address the potential non-compliance.

AMENDMENTS TO THE AGREED SCOPE OF WORK AND SCHEDULE

Amendments to the agreed Scope of Work and schedule may be requested for good cause. Deadline extensions shall only be granted only when requests for extensions are submitted in writing within 30 days of GUNSHY MANOR becoming aware of a circumstance which may result in non-compliance.

To be effective, all proposed amendments must be agreed to and signed by the persons with signature authority for each party and attached to this Agreed Order.

TERMINATION OF THE AGREED ORDER

The Department shall notify GUNSHY MANOR in writing upon finding that the restoration at the subject property has been completed as described in the AOC. Upon issuance of such letter, the requirements of this Agreed Order shall be deemed to be fulfilled.

FAILURE TO COMPLY WITH THIS ORDER

Failure to comply with this Agreed Order may result in civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Agreed Order.

CONTACT INFORMATION

Please direct all questions about this Agreed Order to:

Paul S. Anderson
Department of Ecology
Northwest Regional Office
3190 160th Ave. SE
Bellevue, WA 98008

Phone: (425) 649-7148
Email: Paul.S.Anderson@ecy.wa.gov

SIGNATURE

Gordon White, Program Manager
Shorelands and Environmental Assistance Program

Date

William C. "Buff" Nelson
Estate of Barbara J. Nelson aka GUNSHY MANOR

Date

Message

From: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Sent: 2/27/2016 6:34:07 PM
To: Lori Terry [lori.terry@foster.com]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Stephanie Weir [stephanie.weir@foster.com]; Wolfman, Sonia (ATG) [SoniaW@ATG.WA.GOV]
Subject: RE: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Lori:

Thank you for reminding me that we had already agreed on the square footage of enhancement area back in January. I have to apologize for not going back and reviewing my notes on that agreement. I am sorry for causing any additional work and concern for you since this was an issue that we had resolved.

The vegetation plan update figure that you provided on February 4, 2016 does adequately address the enhancement plantings for Ecology's purposes. I would recommend that this figure, and the associated plant list, be incorporated into a revised restoration plan that Ecology will then be able to reference in our agreed order. I hope to have the order drafted next week.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [mailto:lori.terry@foster.com]
Sent: Friday, February 26, 2016 3:47 PM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>
Cc: Szalay, Endre <Szalay.Endre@epa.gov>; Stephanie Weir <stephanie.weir@foster.com>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>
Subject: RE: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Paul,

We were disappointed to receive your email. The offer we made to Ecology on January 25, 2016, was to provide a total area of enhancement of approximately ½ acre. This offer was accepted by Ecology on the same day -- January 25, 2016. I confirmed our agreement in my email to you dated January 26, 2016. Our proposed Vegetation Plan emailed to you on February 4, 2016, was consistent with our agreement and provided a total area of enhancement of approximately ½ acre. The email chain below confirms our agreement. Under the circumstances, my client's proposed vegetation plan is fully consistent with the agreement we reached to settle this matter on January 25, 2016 and he is unwilling to increase the enhancement plantings.

Lori

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com

1111 Third Ave., Suite 3400

Seattle, WA 98101

Confidential Attorney-Client Communication. IF YOU RECEIVED THIS EMAIL BY MISTAKE,
PLEASE DO NOT READ IT. Reply to sender (or postmaster@foster.com) and delete this mail.

From: Anderson, Paul S. (ECY) [<mailto:paan461@ECY.WA.GOV>]

Sent: Friday, February 26, 2016 10:29 AM

To: Lori Terry

Cc: Szalay, Endre; Stephanie Weir; Wolfman, Sonia (ATG)

Subject: RE: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Thanks Lori. Thanks also for the call last week as I had not seen the figure attached to this e-mail.

Ecology's expectation, as we had discussed on our call back in December, was that there would be enhancement of an area of roughly 30,000 square feet (0.7 ac). The current proposal is to enhance 18,000 sf. Is it possible to find another 12,000 sf of enhancement plantings onsite?

I have started drafting the agreed order so that it will be ready to go once we reach agreement on the planting areas and it has gone through internal review on our end.

Thanks, Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [<mailto:TerrL@foster.com>]

Sent: Thursday, February 04, 2016 11:17 AM

To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>

Cc: Szalay, Endre <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>

Subject: RE: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Thanks, Paul. My client is interested in an agreed order. Attached is a copy of the proposed revised Vegetation Plan, which depicts the areas associated with Ecology's settlement and EPA's settlement. With regard to Ecology's enhancement areas, we have slightly adjusted our proposal. We are providing 3,700 sq. ft. along Evans Creek and 18,000 sq. ft. in Wetland E. Because of the site constraints in the NW corner of Wetland B due to existing vegetation, we have moved 600 sq. ft. of the 3,700 sq. ft. due east and immediately south of Ditch 2. We have also made a few adjustments to the EPA enhancement areas based on a recent site visit to determine existing conditions. Please let me know if you have any questions.

Lori

From: Anderson, Paul S. (ECY) [<mailto:paan461@ECY.WA.GOV>]

Sent: Tuesday, January 26, 2016 3:23 PM

To: Lori Terry

Cc: Szalay, Endre; Stephanie Weir; Wolfman, Sonia (ATG)

Subject: Re: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Thanks Lori.

I have consulted with our enforcement lead at Ecology at HQ and I think we would like to explore the option of an agreed order. Is that something that would be of interest to you and your client?

Paul

Sent from my iPhone

On Jan 26, 2016, at 2:59 PM, "Lori Terry" <TerrL@foster.com> wrote:

Paul,

Thank you for your email. This email confirms that we have an agreement in principle to settle Ecology's NOV as set forth in my email of January 25, 2016, below. Our client will update the following two documents, provided to you at the October 15, 2015 meeting, to reflect the two additional areas of enhancement plantings:

- Revised Vegetation Plan – Talasaea, October 12, 2015
- EPA Final Work Plan – ESM, October 14, 2015

We hope to be able to send the revised documents to you by the end of next week.

Lori & Stephanie

From: Anderson, Paul S. (ECY) [<mailto:paan461@ECY.WA.GOV>]

Sent: Monday, January 25, 2016 4:00 PM

To: Lori Terry

Cc: 'Szalay, Endre'; Stephanie Weir; Wolfman, Sonia (ATG)

Subject: RE: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Lori:

Thanks for getting back to me with your client's response. This is good news and we look forward to receiving the updated scope of work/restoration plan and getting this wrapped up.

Please let me know if you have any other questions.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [<mailto:TerrL@foster.com>]

Sent: Monday, January 25, 2016 11:52 AM

To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>

Cc: 'Szalay, Endre' <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>

Subject: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION;
SUBJECT TO ER 408 & FRE 408

CONFIDENTIAL SETTLEMENT COMMUNICATION

SUBJECT TO ER 408 AND FRE 408

Sonia and Paul,

Thank you for the call on Thursday, January 21st. After discussing your offer with our client, while we disagree with Ecology's position on the boundary of Wetland C, we are pleased that we can accept your offer to resolve this matter through enhancement plantings. The following contains an outline of our proposed settlement:

First, we will agree to widen the area of enhancement plantings along Evans Creek in the Summer Pasture from 15' to 30' wide, which adds an additional area of approximately 3,700 square feet of enhancement area plantings. Because the enhancement will occur in Wetland B, which is a Category I rated wetland that is adjacent to Evans Creek, the enhancement will provide significant ecologic benefits. Second, we will provide enhancement plantings in and around Wetland E, between the Loop Farm Road and Farm Ditch 2, adding an area of approximately 18,000 square feet of enhancement plantings. Our offer provides a total area of enhancement of approximately ½ acre. The enhancement plantings in each area described above will have the same planting densities and species as previously described in the Revised Vegetation Plan.

Because a portion of the proposed enhancement will occur in Wetland B, which is a wetland of higher quality than the double-wide pasture, adjacent to Evans Creek, and will increase the density of plantings in and near Wetland E, we expect significant water quality benefits from our proposal.

The settlement will be made without any admission of liability and will resolve Ecology's outstanding NOV. We are evaluating whether to include the settlement within the EPA settlement documents.

We look forward to hearing from you regarding our proposal. Thank you.

Lori & Stephanie

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com

1111 Third Ave., Suite 3400

Seattle, WA 98101

Confidential Attorney-Client Communication. IF YOU RECEIVED THIS EMAIL BY MISTAKE,
PLEASE DO NOT READ IT. Reply to sender (or postmaster@foster.com) and delete this mail.

Message

From: Lori Terry [lori.terry@foster.com]
Sent: 2/26/2016 11:47:13 PM
To: 'Anderson, Paul S. (ECY)' [paan461@ECY.WA.GOV]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Stephanie Weir [stephanie.weir@foster.com]; Wolfman, Sonia (ATG) [SoniaW@ATG.WA.GOV]
Subject: RE: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Paul,

We were disappointed to receive your email. The offer we made to Ecology on January 25, 2016, was to provide a total area of enhancement of approximately ½ acre. This offer was accepted by Ecology on the same day -- January 25, 2016. I confirmed our agreement in my email to you dated January 26, 2016. Our proposed Vegetation Plan emailed to you on February 4, 2016, was consistent with our agreement and provided a total area of enhancement of approximately ½ acre. The email chain below confirms our agreement. Under the circumstances, my client's proposed vegetation plan is fully consistent with the agreement we reached to settle this matter on January 25, 2016 and he is unwilling to increase the enhancement plantings.

Lori

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com

1111 Third Ave., Suite 3400

Seattle, WA 98101

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From: Anderson, Paul S. (ECY) [mailto:paan461@ECY.WA.GOV]
Sent: Friday, February 26, 2016 10:29 AM
To: Lori Terry
Cc: Szalay, Endre; Stephanie Weir; Wolfman, Sonia (ATG)
Subject: RE: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Thanks Lori. Thanks also for the call last week as I had not seen the figure attached to this e-mail.

Ecology's expectation, as we had discussed on our call back in December, was that there would be enhancement of an area of roughly 30,000 square feet (0.7 ac). The current proposal is to enhance 18,000 sf. Is it possible to find another 12,000 sf of enhancement plantings onsite?

I have started drafting the agreed order so that it will be ready to go once we reach agreement on the planting areas and it has gone through internal review on our end.

Thanks, Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [mailto:TerrL@foster.com]
Sent: Thursday, February 04, 2016 11:17 AM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>
Cc: Szalay, Endre <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>
Subject: RE: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Thanks, Paul. My client is interested in an agreed order. Attached is a copy of the proposed revised Vegetation Plan, which depicts the areas associated with Ecology's settlement and EPA's settlement. With regard to Ecology's enhancement areas, we have slightly adjusted our proposal. We are providing 3,700 sq. ft. along Evans Creek and 18,000 sq. ft. in Wetland E. Because of the site constraints in the NW corner of Wetland B due to existing vegetation, we have moved 600 sq. ft. of the 3,700 sq. ft. due east and immediately south of Ditch 2. We have also made a few adjustments to the EPA enhancement areas based on a recent site visit to determine existing conditions. Please let me know if you have any questions.

Lori

From: Anderson, Paul S. (ECY) [mailto:paan461@ECY.WA.GOV]
Sent: Tuesday, January 26, 2016 3:23 PM
To: Lori Terry
Cc: Szalay, Endre; Stephanie Weir; Wolfman, Sonia (ATG)
Subject: Re: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Thanks Lori.

I have consulted with our enforcement lead at Ecology at HQ and I think we would like to explore the option of an agreed order. Is that something that would be of interest to you and your client?

Paul

Sent from my iPhone

On Jan 26, 2016, at 2:59 PM, "Lori Terry" <TerrL@foster.com> wrote:

Paul,

Thank you for your email. This email confirms that we have an agreement in principle to settle Ecology's NOV as set forth in my email of January 25, 2016, below. Our client will update the following two documents, provided to you at the October 15, 2015 meeting, to reflect the two additional areas of enhancement plantings:

- Revised Vegetation Plan – Talasaea, October 12, 2015
- EPA Final Work Plan – ESM, October 14, 2015

We hope to be able to send the revised documents to you by the end of next week.

Lori & Stephanie

From: Anderson, Paul S. (ECY) [<mailto:paan461@ECY.WA.GOV>]
Sent: Monday, January 25, 2016 4:00 PM
To: Lori Terry
Cc: 'Szalay, Endre'; Stephanie Weir; Wolfman, Sonia (ATG)
Subject: RE: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION;
SUBJECT TO ER 408 & FRE 408

Lori:

Thanks for getting back to me with your client's response. This is good news and we look forward to receiving the updated scope of work/restoration plan and getting this wrapped up.

Please let me know if you have any other questions.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [<mailto:TerrL@foster.com>]
Sent: Monday, January 25, 2016 11:52 AM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>
Cc: 'Szalay, Endre' <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>
Subject: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION;
SUBJECT TO ER 408 & FRE 408

*CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBJECT TO ER 408 AND FRE 408*

Sonia and Paul,

Thank you for the call on Thursday, January 21st. After discussing your offer with our client, while we disagree with Ecology's position on the boundary of Wetland C, we are pleased that we can accept your offer to resolve this matter through enhancement plantings. The following contains an outline of our proposed settlement:

First, we will agree to widen the area of enhancement plantings along Evans Creek in the Summer Pasture from 15' to 30' wide, which adds an additional area of approximately 3,700 square feet of enhancement area plantings. Because the enhancement will occur in Wetland B, which is a Category I rated wetland that is adjacent to Evans Creek, the enhancement will provide significant ecologic benefits. Second, we will provide enhancement plantings in and around Wetland E, between the Loop Farm Road and Farm Ditch 2, adding an area of approximately 18,000 square feet of enhancement plantings. Our offer provides a total area of enhancement of approximately ½ acre. The enhancement plantings in each area described above will have the same planting densities and species as previously described in the Revised Vegetation Plan.

Because a portion of the proposed enhancement will occur in Wetland B, which is a wetland of higher quality than the double-wide pasture, adjacent to Evans Creek, and will increase the density of plantings in and near Wetland E, we expect significant water quality benefits from our proposal.

The settlement will be made without any admission of liability and will resolve Ecology's outstanding NOV. We are evaluating whether to include the settlement within the EPA settlement documents.

We look forward to hearing from you regarding our proposal. Thank you.

Lori & Stephanie

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com

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Message

From: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Sent: 2/26/2016 6:28:45 PM
To: Lori Terry [TerrL@foster.com]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Stephanie Weir [WeirS@foster.com]; Wolfman, Sonia (ATG) [SoniaW@ATG.WA.GOV]
Subject: RE: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

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Thanks, Paul

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Sent: Tuesday, January 26, 2016 3:23 PM
To: Lori Terry
Cc: Szalay, Endre; Stephanie Weir; Wolfman, Sonia (ATG)

Subject: Re: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

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Sent from my iPhone

On Jan 26, 2016, at 2:59 PM, "Lori Terry" <TerrL@foster.com> wrote:

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Sent: Monday, January 25, 2016 4:00 PM
To: Lori Terry
Cc: 'Szalay, Endre'; Stephanie Weir; Wolfman, Sonia (ATG)
Subject: RE: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

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Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [<mailto:TerrL@foster.com>]

Sent: Monday, January 25, 2016 11:52 AM

To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>

Cc: 'Szalay, Endre' <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>

Subject: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION;
SUBJECT TO ER 408 & FRE 408

CONFIDENTIAL SETTLEMENT COMMUNICATION

SUBJECT TO ER 408 AND FRE 408

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We look forward to hearing from you regarding our proposal. Thank you.

Lori & Stephanie

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com

1111 Third Ave., Suite 3400

Seattle, WA 98101

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PLEASE DO NOT READ IT. Reply to sender (or postmaster@foster.com) and delete this mail.

Message

From: Lori Terry [lori.terry@foster.com]
Sent: 8/25/2017 5:15:22 PM
To: 'kimberly.claussen@kingcounty.gov' [kimberly.claussen@kingcounty.gov]; 'jon.pederson@kingcounty.gov' [jon.pederson@kingcounty.gov]; 'john.stabard@kingcounty.gov' [john.stabard@kingcounty.gov]; Rave-Perkins, Krista [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=785ba3699a0f4d42989fba22e659ce74-Rave-Perkins, Krista]; Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; 'casey.costello@dfw.wa.gov' [casey.costello@dfw.wa.gov]; 'rebekah.padgett@ecy.wa.gov.' [rebekah.padgett@ecy.wa.gov]
Subject: Response to Allegations Regarding Gunshy Manor Mitigation Work

This email is written to respond to the allegations contained in the emails below.

- 1) With regard to the allegations that Cascade Utilities used the Brick Road for ingress and egress to Gunshy, those allegations are false. As soon as I forwarded the allegations to Mr. Nelson yesterday, at approximately 5:30 pm, he spoke with the owner of Cascade Utilities, Mr. Bailie, who unequivocally confirmed that Cascade Pole has not used or opened the Gunshy Brick Road entrance. They do not own a John Deer backhoe. Mr. Bailie also stated that there has not been a backhoe on the project. Mr. Bailie is fully aware of the EPA work plan and the King County grading permit requirements, including requirements that they are only to use the Union Hill driveway for ingress and egress. This point was discussed and reviewed by Jon Pederson, King County inspector, at the pre-construction meeting. The Brick Road gate entrance is kept locked and Cascade Utilities does not have the combination. Jon Pederson, the inspector for King County visited the site this morning and confirmed to us that the backhoe and equipment on the Brick Road were King County vehicles.
- 2) Regarding the photos, the three piles of material in the foreground of the photographs does not contain gravel or asphalt, but instead contains woody debris and vegetation that the farm accumulates and burns when conditions permit burning, consistent with the farm's burn permit. There is another pile of crushed gravel behind those piles, which is gravel that the farm retains at all times for purposes of maintaining the farm roads. There is also another pile covered with a black tarp, which covers soil that will be used by the farm.
- 3) Regarding the equipment in the photographs, the Mitigation Work Plan identifies that the following earthmoving equipment will be used for road work: "Excavator, dump truck, skidster, mini-excavator, bulldozer, roller, and grader." The equipment depicted in the photograph is consistent with the equipment described in the Plan." The Plan specifically states (page 8): "The new topsoil and pit run will be compacted enough so that the material stays in place and so the farm vehicles can travel the road without either getting stuck or creating ruts in the road." The activity that occurred complies with these requirements.
- 4) Regarding all of the allegations, Jon Pederson from King County inspected the site this morning and confirmed that all of the work that has been completed has been conducted in compliance with the project's regulatory requirements.

Thank you for the opportunity to provide this information to you. If you have questions, please contact me.

Lori Terry Gregory
ATTORNEY
Foster Pepper PLLC
Tel: 206.447.8902
lori.terry@foster.com

PRIVILEGED AND CONFIDENTIAL

This e-mail is from the law firm of Foster Pepper PLLC ("FP") and is intended solely for the use of the addressee(s). Please maintain this email and its contents in

ED_002163_00000289-00001

From: Red Brick Road [mailto:redbrickrd@outlook.com]

Sent: Thursday, August 24, 2017 4:17 PM

To: Kimberly.claussen@kingcounty.gov; Pederson, Jon <Jon.Pederson@kingcounty.gov>;

john.starbard@kingcounty.gov; Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>; Casey.Costello@dfw.wa.gov;

rebekah.padgett@ecy.wa.gov

Subject: RE: Gunshy Manor restoration issues

Oh, and one more thing.

We're seeing heavy machinery operated by Cascade Utilities (including a John Deere backhoe) use the Red Brick Road exit from Gunshy Manor in order to access their equipment yard to the west.

The settlement explicitly requested that the Brick Road not be used during restoration, due to risks to the already fragile surface, and there is no reason except saving minimal time for Cascade Utilities to be using the Brick Road when there's another exit on Union Hill Road.

If Cascade Utilities and the Nelson Family can't adhere to even the simplest part of the settlement, how can we expect them to honor the rest of it?

Thank you.

From: Red Brick Road

Sent: Thursday, August 24, 2017 2:56 PM

To: Kimberly.claussen@kingcounty.gov; Pederson, Jon <Jon.Pederson@kingcounty.gov>;

john.starbard@kingcounty.gov; Rave-Perkins.Krista@epa.gov; Casey.Costello@dfw.wa.gov;

rebekah.padgett@ecy.wa.gov

Subject: Gunshy Manor restoration issues

Dear King County DPER, US EPA, WA DFW, WA ECY:

Restoration has begun on the Gunshy Manor site, and our neighborhood has some issues to raise with how it's proceeding:

First, we believe the site owners are violating the settlement agreement by re-compacting soils after removal from the roads. They are operating a massive road machine rolling soil compactor behind the excavator which is removing the top layer of the loop road top layer. This should not be allowed on site, and is clearly a violation of the owner's agreement to restore the loop roads to their prior condition: by re-compacting what was previously compacted (without permit), they are essentially preserving their unpermitted roadwork. Does their permit allow them to re-compact? What kind of best practices for restoration allow recompacting of soil that was already compacted without authorization?

Second, we would like to understand how King County DPER is accounting for the quantity of asphalt grindings removed. We have receipts provided by the owners of Gunshy Manor that show that at least 480 tons (nearly 1 million pounds) of fill were brought in. It would be reasonable to expect that the owners will be able to account for how much material is removed as part of the restoration. Our neighborhood can observe some piles of material being dumped upland on the Gunshy Manor site. However, what happens when the pile does not exceed 20 tons? Is DPER monitoring this and measuring compliance?

Third, the site owners have failed to create any erosion barriers or runoff control system at the grading site. They have not deployed any kind of soil erosion control eco-fencing. The site plan clearly shows that the adjacent streams are fish bearing streams, but there is no obvious sign of any erosion barrier being deployed to prevent rain water runoff directly

into the stream adjacent. We believe this too is a violation of the settlement agreement, which aimed to preserve these streams.

In light of these issues, which given the history of the site could likely have been anticipated, our neighborhood would like to ask what specific action items DPER will perform to remedy their lack of oversight, and to correct issues such as the soil re-compaction that have already been performed by Cascade Utilities.

Thank you.

Message

From: Lori Terry [lori.terry@foster.com]
Sent: 6/1/2016 11:03:25 PM
To: 'Anderson, Paul S. (ECY)' [paan461@ECY.WA.GOV]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Wolfman, Sonia (ATG) [SoniaW@ATG.WA.GOV]
Subject: Estate of Nelson (Gunshy Manor) - EPA Settlement Orders - Confidential Settlement Communication; Subject to FRE 408 and ER 408
Attachments: Consent Agreement and Final Order.pdf; Administrative Order of Consent.pdf; Exhibit A - Estate of Nelson AOC & CAFO (Site Aerial).pdf; Exhibit B - Estate of Nelson AOC (Draft Work Plan).pdf; Exhibit C - Estate of Nelson AOC (Draft VegPlan).pdf; Exhibit D - Estate of Nelson AOC (NWP32 Request Letter).docx

Paul,

Attached are copies of the Orders and exhibits settling the EPA Clean Water Act enforcement matter, which have been signed by my client. I believe Endre Szalay has already provided you with drafts. My understanding is that the Orders are in the process of being signed by Ed Kowalski and then will go through a 30-day public comment period. Exhibit "C" contains the Ecology mitigation area. I am hopeful that you will be able to provide me with a draft of the RCW 90.48 Order soon so that we can resolve the Ecology matter within the same timeframe as we obtain final EPA orders. Feel free to give me a call or email if that would be helpful. Thank you.

Lori

Lori Terry Gregory

ATTORNEY | FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3000 | Seattle, WA 98101
P 206-447-8902 | E lori.terry@foster.com

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101**

In the Matter of:

**William C. Nelson, Jr. and
The Estate of Barbara Nelson,
Redmond, Washington**

Respondents.

DOCKET NO. CWA-10-2016-0087

**ADMINISTRATIVE ORDER
ON CONSENT**

I. STATUTORY AUTHORITY

1.1. The United States Environmental Protection Agency ("EPA") issues this Administrative Order on Consent ("Consent Order") pursuant to the authority vested in the EPA Administrator by Sections 308 and 309(a) of the Clean Water Act ("Act" or "CWA"), 33 U.S.C. §§ 1318 and 1319(a). This authority has been delegated to the Regional Administrator, Region 10, and has been duly redelegated to the undersigned Director of the Office of Compliance and Enforcement.

II. STIPULATIONS

2.1. The purpose of this Consent Order is to remedy William C. Nelson, Jr.'s and the Estate of Barbara J. Nelson's (Respondents) alleged discharge of dredged or fill material into

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Page 1 of 12
Docket Number CWA-10-2016-0087**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

waters of the United States more fully described in Section IV below. Respondents neither admit nor deny the EPA's Finding and Conclusions in Section IV.

2.2. The EPA and Respondents recognize that this order has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Consent Order do not constitute an admission of fault or liability. EPA and Respondents have voluntarily entered into this Consent Order in lieu of alternatives available to the EPA and Respondents, including litigation. Respondents retain the right to controvert in any subsequent proceedings the validity of EPA's Findings and Conclusions, other than proceedings to implement or enforce this Consent Order.

2.3. Respondents agree to comply with and be bound by the terms of this Consent Order and further agree that they will not contest the validity of this Consent Order or its terms as specified herein.

III. APPLICABILITY

3.1. Respondents waive any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law or any terms and conditions set forth in this Consent Order, including any right of judicial review of this Consent Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

3.2. This Consent Order shall be binding on Respondents and their agents, employees, attorneys, successors, and assigns. This Consent Order shall be binding on anyone operating under the direction of the Order.

3.3. Respondents must provide a copy of this Consent Order to all contractors and/or consultants retained to perform any of the work described in this Consent Order at least 48 hours prior to the initiation of such work.

3.4. If Respondents transfer any interest in the real property prior to completion of the work described in this Consent Order, Respondents must provide a copy of this Consent

Order to any successor in ownership, control, operation, or any other interest in all or any portion of the real property at issue at least 30 days prior to the transfer and must simultaneously notify EPA in writing that such notice has been given. No transfer or contract shall in any way affect Respondents' obligation to comply fully with all the terms and conditions of this Consent Order.

IV. EPA'S FINDINGS AND CONCLUSIONS

4.1 Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States by any person, except as authorized by a permit issued pursuant to Section 402 or 404 of the Act, 33 U.S.C. § 1342 or 1344. Each discharge of pollutants from a point source that is not authorized by such a permit constitutes a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

4.2 Respondents are "persons" within the meaning of Sections 301(a) and 502(5) of the Act, 33 U.S.C. §§ 1311(a) and 1362(5).

4.3 Respondents own, possesses, and/or control approximately 124 acres of real property in Redmond, Washington, known as Gunshy Manor Farm (hereinafter "the Farm"). The Farm is located near 7240 196th Avenue, Redmond, Washington, 98053, Latitude 47.669589°, Longitude -122.076217°, which is generally depicted in the aerial Photograph, attached as Exhibit "A." On February 18, 2015, Agency staff from the EPA, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, and the Washington State Department of Ecology conducted a site visit and collected soil samples at the Farm.

4.4 At the time of the unauthorized activities described below, the Farm contained wetlands within the meaning of 33 C.F.R. § 328.3(b) and 40 C.F.R. § 232.2. The wetlands impacted by the alleged unauthorized discharges described in paragraph 4.6 below meet the criteria for jurisdictional wetlands in the 1987 "Federal Manual for Identifying and Delineating Jurisdictional Wetlands."

4.5 The wetland areas impacted by the alleged unauthorized discharges described in paragraph 4.6 below are adjacent and hydrologically connected to ditches and streams that

eventually flow into Evans Creek, which flows into Bear Creek, which flows into the Sammamish River. The Sammamish River is a Rivers and Harbors Act Section 10, 33 U.S.C. § 403, water and is a “water of the United States” as defined in 33 C.F.R. § 328.3(a)(1), and 40 C.F.R. § 232.2, and is therefore is a “navigable water” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7). Consequently, the ditches and streams and the adjacent wetlands impacted by the alleged unauthorized discharges described in paragraph 4.6 below are “waters of the United States” within the meaning of 33 C.F.R. §§ 328.3(5)&(7) and 40 C.F.R. § 232.2, and therefore “navigable waters” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7).

4.6 On or before January 2010 to the effective date of this Consent Order, at times more fully known to Respondents, Respondents and/or persons acting on their behalf, used heavy earth-moving equipment to place dredged and/or fill material into wetlands and other waters of the United States at the Farm. This activity occurred when Respondents spread fill material in areas known as the Spur Farm Road and the Loop Farm Road and in a portion of the South Farm Ditch located in the Summer Pasture, hereinafter referred to as “the Site,” which areas are generally depicted in the Site Aerial Photograph, attached as Exhibit “A.”

4.7 The construction equipment referenced in Paragraph 4.6 is a “point source” within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

4.8 The dredged and/or fill materials that Respondents and/or persons acting on their behalf caused to be discharged, as referenced in Paragraph 4.6, included dirt and gravel, among other things, each of which constitutes “dredged material” and/or “fill material” within the meaning of 40 C.F.R. § 232.2, and each of which constitutes a “pollutant” within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

4.9 By causing such dredged and/or fill materials to enter waters of the United States, Respondents engaged in the “discharge of pollutants” from a point source within the meaning of Sections 301(a) and 502(12) of the Act, 33 U.S.C. §§ 1311(a) and 1362(12).

4.10 Respondents' discharges of dredged and/or fill materials described in Paragraph 4.6 above were not authorized by any permit issued pursuant to Section 404 of the Act, 33 U.S.C. § 1344. Respondents are therefore in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

4.11 Each day the dredged and/or fill material remains in place without the required permit constitutes an additional day of violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

4.12 Taking into account the seriousness of these violations and any good faith efforts to comply with applicable requirements, the schedule for compliance contained in Section V of this Consent Order is reasonable and appropriate.

V. COMPLIANCE MEASURES

Based upon the foregoing FINDINGS AND CONCLUSIONS and pursuant to Sections 308 and 309(a) of the Act, 33 U.S.C. §§ 1318 and 1319(a), it is hereby AGREED and ORDERED as follows:

5.1. Prohibition of Discharge: Respondents shall not discharge any dredge or fill material into any waters of the United States at the Site except in compliance with this Consent Order or a permit issued or authorized pursuant to the CWA, or CWA Section 404(f).

5.2. Submission of Final Restoration and Mitigation Work Plan: No later than **90 days after the effective date of this Consent Order**, Respondents must submit to the EPA contact identified in Paragraph 5.12 of this Consent Order, for review and approval, a Final Restoration and Mitigation Work Plan consistent with the documents entitled, "Draft Work Plan," attached as Exhibit "B," and "Draft Vegetation Plan," attached as Exhibit "C." This Final Restoration and Mitigation Work Plan must include:

5.2.1. A scaled site survey, sketch(s) and/or drawing(s), depicting the Site's features and boundaries ("Site Survey") for purposes of being able to locate the restoration and mitigation activities as set forth in paragraph 5.2.2 below;

5.2.2. A description of the exact areas where restoration and mitigation activities will occur, using the Site Survey described in Paragraph 5.2.1 above as a base, including the dimensions (length, width and depth) of the South Farm Ditch to be meandered and the dimensions (length, width, and volume) of the soil and gravel to be removed from the road and the Site restored. Indicate the location of proposed plantings/seeding;

5.2.3. A description of how the work is to be completed, including: (1) a task schedule, including anticipated start dates for when the fill removal and restoration activities would commence; (2) list of heavy earthmoving equipment to be used; (3) the name(s) and contact information for the person(s) and/or contractor(s) that will complete the work under this Compliance Order; (4) the process for meandering the South Farm Ditch and vegetating the area; (5) the process for removing gravel fill and vegetating the area; and (6) the upland disposal location and an estimate of the quantity (cubic yards) of gravel material to be removed;

5.2.4. A list of the best management practices ("BMPs") (including silt fences, silt curtains, work practices, etc.) Respondents will employ during the restoration and mitigation activities to minimize to the maximum extent practicable: (1) the discharge of sediment and other pollutants to waters of the United States, including wetlands; and (2) soil compaction and damage to existing vegetation.

5.2.5. A Vegetation Plan identifying the specific plant species, planting densities, planting locations, and vegetation techniques that Respondents will employ;

5.2.6. A 5-year Monitoring Plan describing the hydrologic monitoring for the remeander of the South Farm Ditch (flow, channel stability, and erosion); vegetation monitoring; and photographic monitoring and documentation for the restoration and mitigation measures contained in the Final Restoration and Mitigation Work Plan.

Performance standards for the hydrology of the remeander of the South Farm Ditch

(flow, channel stability, and erosion) and a 70% survivability rate for the vegetation should be established.

5.2.7. A Contingency Plan (or Adaptive Management Plan) identifying the steps Respondents will take in the event the performance standards for restoration activities are not achieved.

5.3. Approval by EPA: Upon receipt of the Final Restoration and Mitigation Work Plan, EPA will, within a reasonable time, review and approve the plan or submit a request for additional information. Respondents shall respond to an initial request for additional information within 30 days. EPA will review the response to the request for additional information and approve the plan or submit a final request for additional information within a reasonable time.

5.4. Notification to EPA: At least seven days prior to commencing activities on the Site under the EPA-approved Final Restoration and Mitigation Work Plan, Respondents must notify the EPA representative identified in Paragraph 5.12.

5.5. Implementation: **No later than March 31, 2017**, Respondents must complete the restoration work as required by the EPA-approved Final Restoration and Mitigation Work Plan.

5.6. Completion Report: Within fourteen days of completing the on-site mitigation activities described in the EPA-approved Final Restoration and Mitigation Work Plan, Respondents must notify, in writing, the EPA representative identified in Paragraph 5.12. The notification must include photographs of Site conditions before and after compliance with this Consent Order. EPA will approve the Completion Report within a reasonable time, not to exceed thirty (30) days from receipt of Respondents' written notification.

5.7. Annual Report: On or before the first anniversary of EPA's approval of the Completion Report described in Paragraph 5.6 above, Respondents must submit to the EPA contact identified in Paragraph 5.12 of this Consent Order the first of four (4) annual reports that include: (1) documentation of the hydrologic changes in the remainder of the South Farm Ditch; (2) photographic documentation of the fill removal at the Spur Road; and (3) documentation of

the seeding/vegetation efforts described in the EPA-approved Final Restoration and Mitigation Work Plan. Respondents must submit similar such annual reports on the same date in each of the following three years: year 2, year 4, and year 5.

5.8. Site Access: Until termination of this Order, Respondents must, commencing on the Effective Date, provide EPA and its employees and representatives with access at reasonable times, after providing reasonable notice to Respondents, to the Site to inspect the areas of the Site that pertain to implementation of this Consent Order and must provide access to all records and documentation required to be kept as part of the restoration and mitigation activities conducted pursuant to this Consent Order.

5.9. Force Majeure: In the event that there is an actual or anticipated delay attributable to force majeure, the time for performance of the obligation shall be extended by written agreement of the parties. An extension of the time for performing an obligation directly affected by the force majeure event shall not, of itself, extend the time for performing a subsequent obligation.

5.9.1. For the purposes of this Consent Order, "force majeure" shall mean any event beyond the reasonable control of Respondents or any entity controlled by Respondents, including Respondents' contractors, consultants, and subcontractors, that delays or prevents performance of any obligation under this Consent Order notwithstanding Respondents' best efforts to avoid the delay. The best efforts requirement includes using best efforts to anticipate any such event and minimize the delay caused by any such event to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any work to be performed under this Consent Order and financial difficulties encountered by Respondents.

5.9.2. If any event may occur or has occurred that may delay the performance of any obligation under this Consent Order, whether or not caused by a force majeure,

Respondents must notify by telephone the EPA contact identified in Paragraph 5.12 of this Consent Order, within ten business days of when Respondents became aware that the event might cause a delay. Within ten days thereafter, Respondents must provide in writing the reasons for the delay, the anticipated duration of the delay, the measures taken or to be taken to prevent or minimize the delay, a timetable by which those measures will be implemented, and whether, in Respondents' opinion, such event may cause or contribute to an endangerment to public health or the environment. Respondents must exercise best efforts to avoid or minimize any delay and any effects of a delay. Failure to comply with the notice requirements of this paragraph shall preclude Respondents from asserting any claim of force majeure.

5.9.3. Respondents shall have the burden of demonstrating, by a preponderance of the evidence, that the actual or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay was or will be warranted under the circumstances, that Respondents did exercise or is using best efforts to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of this section.

5.10. Dispute Resolution. Unless otherwise expressly provided for in this Consent Order, the dispute resolution procedures of this provision shall be the exclusive mechanism for resolving disputes arising under this Consent Order. The parties shall attempt to resolve any disagreement concerning this Consent Order expeditiously and informally. If Respondents object to any EPA action taken pursuant to this Consent Order, Respondents shall notify the EPA in writing of their objection within ten (10) days of such action, unless the objection has been resolved informally. The EPA and Respondents shall have thirty (30) days from EPA's receipt of Respondents' written objections to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of the EPA. Any agreement reached by the parties pursuant to this paragraph shall be in writing and

shall, upon signature of the parties, be incorporated into and become an enforceable part of this Consent Order. If the parties are unable to reach an agreement within the Negotiation Period, the Director of the Office of Compliance and Enforcement, EPA Region 10, will issue a written decision on the dispute. This decision shall be incorporated into and become an enforceable part of this Consent Order. Respondents' obligations under this Consent Order shall not be tolled by submission of any objection for dispute resolution under this paragraph. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with the EPA's decision, whichever first occurs.

5.11. **Modification:** The deadlines set forth in this Consent Order may be modified by written agreement of the Parties. An example of a situation that would result in a reasonable adjustment of deadlines through a modification of this Consent Order would be if Respondents were unable, through no fault of their own, to timely obtain local land use permits to enable them to implement the restoration work described in paragraph 5.2 above.

5.12. **Project Coordinators:** The parties have designated his respective Project Coordinators as follows:

(a) For EPA:

Krista Rave-Perkins
Aquatic Resources Unit
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Mail Stop – ETPA-202
Seattle, Washington 98101
Phone: (206) 553-6686

(b) For Respondents:

William C. Nelson, Jr.
16508 NE 79th St.
Redmond, WA 98052
buffnelson@nelrem.com
Phone: 425-881-7831

The Project Coordinators shall be responsible for overseeing the implementation of this Consent Order and receiving communications, which include, but are not limited to, all documents, reports, comments, approvals, and other correspondence submitted or exchanged under this Consent Order. EPA and Respondents may change their respective Project Coordinator by giving the other party advance written notice.

5.13. Failure to timely and appropriately implement to EPA's satisfaction any element of the EPA-approved Restoration and Mitigation Plan shall be deemed a violation of this Consent Order and of the Clean Water Act.

5.14. Nationwide Permit 32 for Completed Enforcement Actions, 77 Fed. Reg. 10184, 10184 (Feb. 21, 2012), authorizes "[a]ny structure, work, or discharge of dredged or fill material remaining in place or undertaken for mitigation, restoration, or environmental benefit in compliance with" the terms of a CWA Section 309(a) Consent Order. Upon the effective date of this Consent Order, as described in paragraph 5.15 below, Respondents shall provide to the District Engineer of the U.S. Army Corps of Engineers, Seattle District an application in the form of the letter attached at Exhibit D, which requests the District Engineer to verify that Nationwide Permit 32 authorizes Respondents to implement the Final Restoration and Mitigation Plan in accordance with the Scope of Work Memo and Work Plan.

5.15. This Consent Order shall become effective on the date it is signed by EPA ("Effective Date") and shall terminate upon written concurrence from EPA that Respondents have complied with its terms.

VI. POTENTIAL SANCTIONS

6.1. Failure to comply with the terms of this CWA Section 309(a) Consent Order may result in your liability for statutory civil penalties under CWA Section 309(d), 33 U.S.C. § 1319(d), as modified 40 C.F.R. Part 19. Should EPA commence an action seeking penalties for violations of this Consent Order, a United States district court may impose civil penalties if, after notice and opportunity for a hearing, the court determines that you have violated the CWA and failed to comply with the terms of the Consent Order. The court has the authority to impose separate civil penalties for violation of the CWA as well as for violation of this Consent Order.

6.2. This Consent Order is not a permit, and nothing in this Consent Order shall be construed to relieve Respondents of any applicable requirements of federal, state, or local law.

The undersigned representative of Respondents certifies that he is fully authorized to enter into the terms and conditions of this Order and to bind Respondents to this document.

STIPULATED and AGREED this 1st day of June, 2016:

W.C. Nelson, Jr.
William C Nelson, Jr.

It is so ORDERED and AGREED this ____ day of _____, 2016:

Edward J. Kowalski, Director
Office of Compliance and Enforcement

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The Estate of Barbara Nelson
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U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073

EXHIBIT A: FARM AND SITE AERIAL PHOTOGRAPH

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Exhibits
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

EXHIBIT B: DRAFT WORK PLAN

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Exhibits
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

EXHIBIT C: DRAFT VEGETATION PLAN

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Exhibits
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

EXHIBIT D: NWP 32 REQUEST LETTER

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Exhibits
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101**

In the Matter of:

**William C. Nelson, Jr. and
The Estate of Barbara Nelson,
Redmond, Washington**

Respondents.

DOCKET NO. CWA-10-2016-0088

**CONSENT AGREEMENT
AND FINAL ORDER**

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 309(g)(2)(B) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(B).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 309(g)(1) and (2)(B) of the CWA, 33 U.S.C. § 1319(g)(1) and (2)(B), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and William C. Nelson, Jr. and The Estate of Barbara Nelson (“Respondents”) agree to issuance of, the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this CAFO

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**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a Class II penalty is proposed to be assessed pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”).

2.3. Part III of this CAFO contains a concise statement of the factual and legal basis for the alleged violations of the CWA together with the specific provisions of the CWA and the implementing regulations that Respondents are alleged to have violated.

III. ALLEGATIONS

3.1. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States by any person, except as authorized by a permit issued pursuant to Section 402 or 404 of the Act, 33 U.S.C. § 1342 or 1344. Each discharge of pollutants from a point source that is not authorized by such a permit constitutes a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

3.2. Respondents are “persons” within the meaning of Sections 301(a) and 502(5) of the Act, 33 U.S.C. §§ 1311(a) and 1362(5).

3.3. Respondents own, possesses, and/or control approximately 124 acres of real property in Redmond, Washington, known as Gunshy Manor Farm (hereafter “the Farm”). The Farm is located near 7240 196th Avenue, Redmond, Washington, 98053, Latitude 47.669589°, Longitude -122.076217°. On February 18, 2015, Agency staff from the EPA, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, and the Washington State Department of Ecology conducted a site visit and collected soil samples at the Farm.

3.4. At the time of the unauthorized activities described below, the Farm contained wetlands within the meaning of 33 C.F.R. § 328.3(b) and 40 C.F.R. § 232.2. The wetlands impacted by the alleged unauthorized discharges described in paragraph 3.6 below meet the criteria for jurisdictional wetlands in the 1987 “Federal Manual for Identifying and Delineating Jurisdictional Wetlands.”

3.5. The wetland areas impacted by the alleged unauthorized discharges described in paragraph 3.6 below are adjacent and hydrologically connected to ditches and streams that eventually flow into Evans Creek, which flows into Bear Creek, which flows into the Sammamish River. The Sammamish River is a Rivers and Harbors Act Section 10, 33 U.S.C. § 403, water and is a “water of the United States” as defined in 33 C.F.R. § 328.3(a)(1), and 40 C.F.R. § 232.2, and is therefore is a “navigable water” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7). Consequently, the ditches and streams and adjacent wetlands impacted by the alleged unauthorized discharges described in paragraph 3.6 below are “waters of the United States” within the meaning of 33 C.F.R. §§ 328.3(5)&(7) and 40 C.F.R. § 232.2, and therefore “navigable waters” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7).

3.6. On or before January 2010 to the effective date of this agreement, at times more fully known to Respondents, Respondents and/or persons acting on their behalf, used heavy earth-moving equipment to place dredged and/or fill material into wetlands and other waters of the United States at the Farm. This activity occurred when Respondents spread fill material in areas known as the Spur Farm Road and the Loop Farm Road and in a portion of the South Farm Ditch located in the Summer Pasture, which areas are generally depicted in the Site Aerial Photograph, attached as Exhibit A, hereafter referred to as “the Site”.

3.7. The construction equipment referenced in Paragraph 3.6 is a “point source” within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

3.8. The dredged and/or fill materials that Respondents and/or persons acting on their behalf caused to be discharged, as referenced in Paragraph 3.6, included dirt and gravel, among

other things, each of which constitutes “dredged material” and/or “fill material” within the meaning of 40 C.F.R. § 232.2, and each of which constitutes a “pollutant” within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

3.9. By causing such dredged and/or fill materials to enter waters of the United States, Respondents engaged in the “discharge of pollutants” from a point source within the meaning of Sections 301(a) and 502(12) of the Act, 33 U.S.C. §§ 1311(a) and 1362(12).

3.10. Respondents’ discharges of dredged and/or fill materials described in Paragraph 3.6 above were not authorized by any permit issued pursuant to Section 404 of the Act, 33 U.S.C. § 1344. Respondents are therefore in violation of section 301(a) of the Act, 33 U.S.C. § 1311(a).

3.11. Each day the dredged and/or fill material remains in place without the required permit constitutes an additional day of violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

3.12. In accordance with Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19, Respondents are liable for the administrative assessment of civil penalties for violations at the Site in an amount not to exceed \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

IV. CONSENT AGREEMENT

4.1. For purposes of this Consent Agreement and Final Order, or any action to enforce it, Respondents admit the jurisdictional allegations of this CAFO.

4.2. Respondents neither admit nor deny the specific factual allegations contained in this CAFO.

4.3. As required by Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the alleged violations as well

as Respondents' degree of culpability, economic benefit of noncompliance, ability to pay, and other relevant factors. After considering all of these factors, EPA has determined and Respondents agree that an appropriate penalty to settle this action is \$10,000.

4.4. Respondents agree to pay the total civil penalty set forth in Paragraph 4.3 within 30 days of the effective date of the Final Order contained in Part V of this CAFO.

4.5. Payment under this CAFO must be made by a cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondents must note on the check the title and docket number of this action.

4.6. Respondents must serve photocopies of the check described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Krista Rave-Perkins
U.S. Environmental Protection Agency,
Region 10, Mail Stop – ETPA-202
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

4.7. If Respondents fail to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondents to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.7.1. Interest. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C.

§ 1319(g)(9), any unpaid portion of the assessed penalty shall bear interest at a rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order set forth in Part V, provided however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

4.7.2. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondents fail to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondents shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondents' penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.8. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.7, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.9. Except as described in Subparagraph 4.7.2, above, each party shall bear its own costs in bringing or defending this action.

4.10. For purposes of this Consent Agreement and Final Order, Respondents expressly waive any right to contest the allegations and waives any right to appeal the Final Order set forth in Part V.

4.11. The provisions of this CAFO shall bind Respondents and its agents, servants,

employees, successors, and assigns.

4.12. The above provisions are STIPULATED AND AGREED upon by Respondents and EPA Region 10.

DATED:

FOR RESPONDENTS:

June 1, 2016

W.C. Nelson

WILLIAM C. NELSON, JR.

DATED:

FOR COMPLAINANT:

EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondents are ordered to comply with the terms of settlement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondents' obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

5.3. In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and

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40 C.F.R. § 22.38(b), the Washington Department of Ecology has been given the opportunity to consult with EPA regarding the assessment of the administrative civil penalty against Respondents.

5.4. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA has issued public notice of and provided reasonable opportunity to comment on its intent to assess an administrative penalty against Respondents. More than 40 days have elapsed since issuance of this public notice and EPA has received no petition to set aside the Consent Agreement contained herein.

5.5. This Final Order shall become effective upon filing.

SO ORDERED this ____ day of _____, 2016.

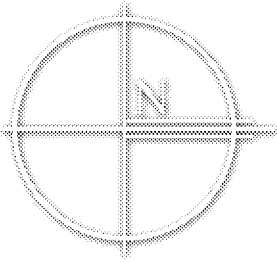
M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

EXHIBIT A: FARM AND SITE AERIAL PHOTOGRAPH

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
CAFO – Exhibit A
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

GUNSHY MANOR FARM, EXHIBIT A



NOT TO SCALE



This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of Waters of the U.S.

COLOR AERIAL PHOTO: KING COUNTY, 2011

CONSULTING ENGINEERS LLC
33400 8th Avenue South, Suite 200
Federal Way, WA 98003

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ESTATE OF BARBARA J. NESLON

GUNSHY MANOR
GUNSHY MANOR FARM EXHIBIT

KING COUNTYWASHINGTON

JOB NO.:	1359-001-007
DWG. NAME:	MC-PL-31-KC
DESIGNED BY:	EGL
DRAWN BY:	DCL
CHECKED BY:	
DATE:	11/03/2015
DATE OF PRINT:	

GUNSHY MANOR FARM

EPA DRAFT WORK PLAN

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 Plotted By: Jeff Hing

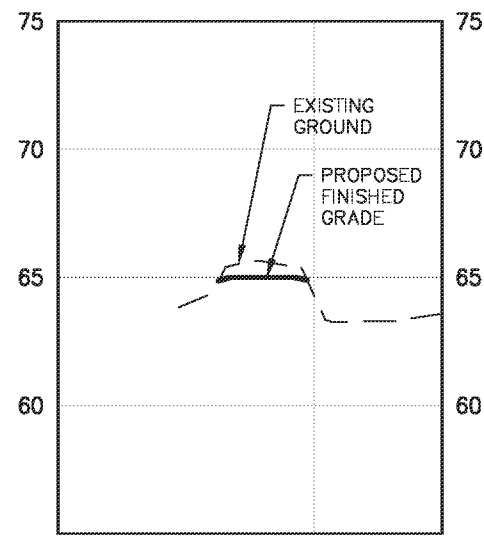
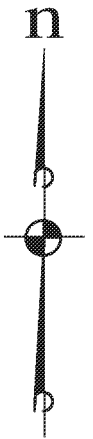
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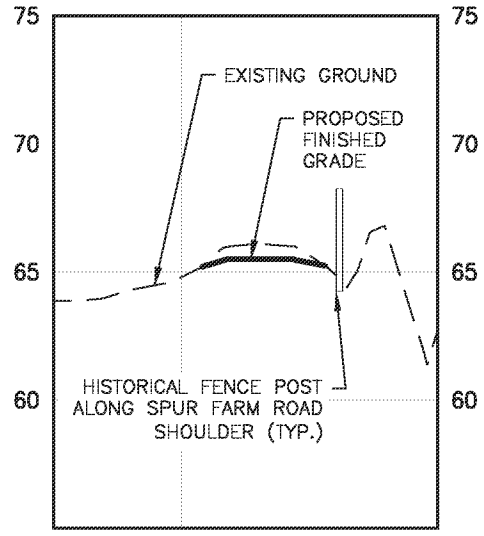
PROPOSED GRADING VOLUMES	
SPUR FARM ROAD EXCAVATION	= ±278 CY
FARM DITCH 1 EXCAVATION	= ±37 CY
FARM DITCH 1 FILL	= ±27 CY
NET EXCAVATION	= ±288 CY
MATERIAL TO BE KEPT ONSITE	= ±10 CY
MATERIAL TO BE EXPORTED	= ±278 CY

TABLE OF MITIGATION / RESTORATION SEQUENCE FOR WORK AREAS	
(D)	1. REMOVE PORTIONS OF GRAVEL AND DIRT LAYER FROM PRE-EXISTING COBBLE ROAD SURFACE. 2. HYDROSEED DISTURBED AREAS.
(E)	1. REMOVE PORTIONS OF GRAVEL AND DIRT LAYER FROM PRE-EXISTING DIRT FARM ROAD SURFACE. 2. HYDROSEED DISTURBED AREAS.

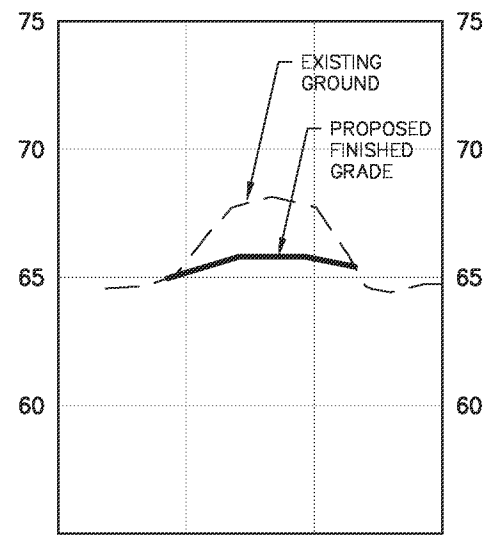
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CONTOUR INTERVAL = 2'



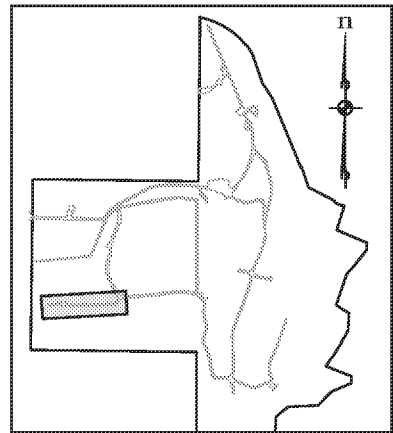
SECTION A-A
SCALE: 1"=20' HORIZ.
1"=5' VERT.



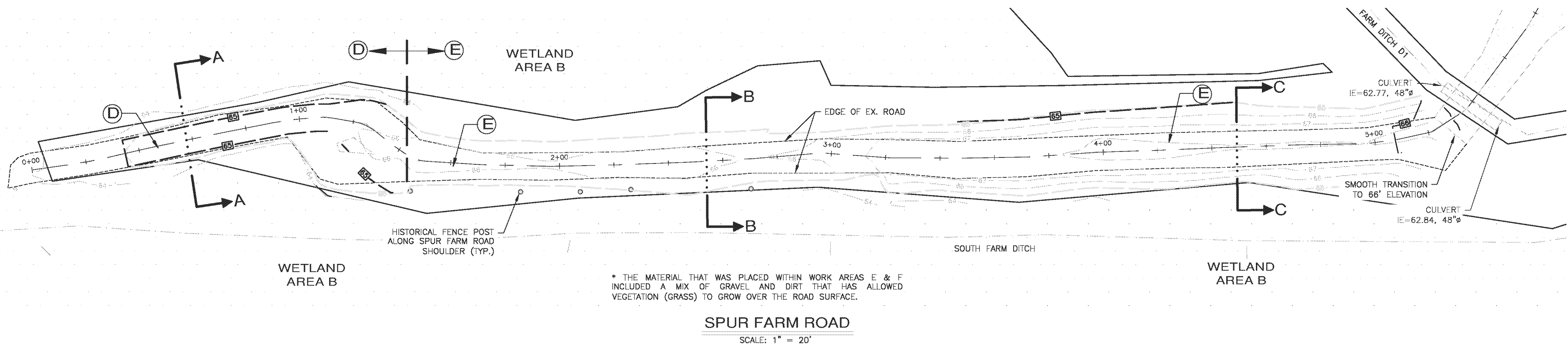
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SECTION C-C
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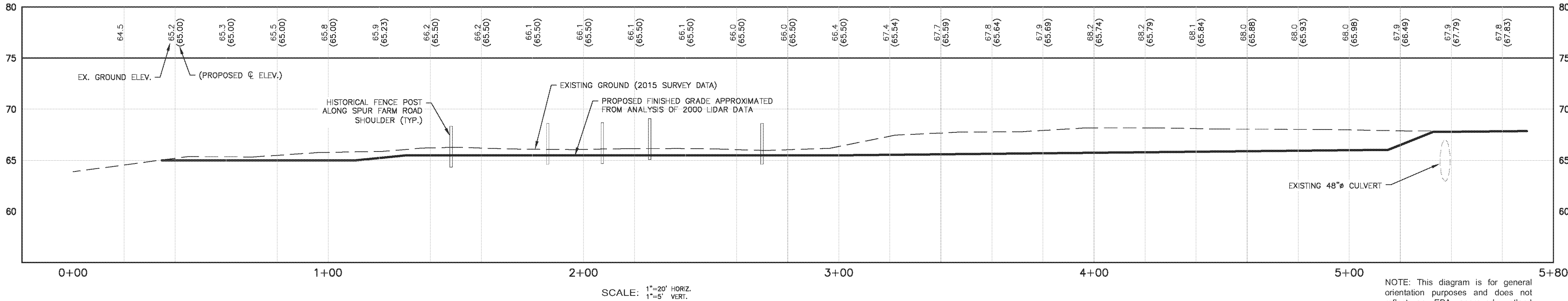


KEY MAP



* THE MATERIAL THAT WAS PLACED WITHIN WORK AREAS E & F INCLUDED A MIX OF GRAVEL AND DIRT THAT HAS ALLOWED VEGETATION (GRASS) TO GROW OVER THE ROAD SURFACE.

SPUR FARM ROAD
SCALE: 1" = 20'



SCALE: 1"=20' HORIZ.
1"=5' VERT.

NOTE: This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of waters of the U.S.

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1	EPA COMMENTS 10/14/2015	ESM

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REGISTERED
LANDSCAPE ARCHITECT
Leanne E. Korman
LEANNE E. KORMAN
CERTIFICATE NO. 743

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Federal Way, WA 98003

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LANDSCAPE ARCHITECTURE

THE ESTATE OF BARBARA J. NELSON
GUNSHY MANOR FARM
EPA DRAFT WORK PLAN
KING COUNTY
WASHINGTON

JOB NO.: 1359-001-012
DWG. NAME: EN-03
DESIGNED BY: EGM
DRAWN BY: LDK
CHECKED BY:
DATE: 10/14/2015
DATE OF PRINT:

EN-03
3 OF 6 SHEETS

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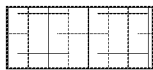
SEE SHEET EN-03

SYMBOL LEGEND

SYMBOL MITIGATION/RESTORATION SUMMARY



AREA TO BE RESTORED TO PREVIOUS DIRT FARM ROAD CONDITION AND HYDROSEEDED. REFER TO MITIGATION / RESTORATION SEQUENCE TABLE THIS SHEET.



AREA ON EITHER SIDE OF 10' WIDE GRAVEL FARM ROAD TO BE RESTORED TO PASTURE. REFER TO TABLE OF MITIGATION / RESTORATION SEQUENCE THIS SHEET.

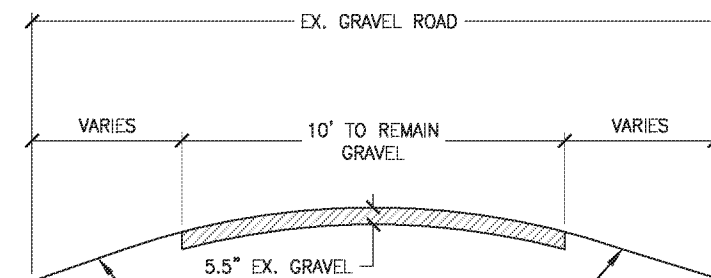
TABLE OF MITIGATION / RESTORATION SEQUENCE FOR WORK AREAS

Ⓒ

PLANT NATIVE SPECIES EVERGREEN TREES TO PROVIDE SHADE AND REDUCTION OF WATER TEMPERATURE PER APPROVED KING CONSERVATION DISTRICT FARM CONSERVATION PLAN. SEE VEGETATION PLAN PREPARED BY TALASAEA CONSULTANTS FOR DETAIL.

Ⓕ

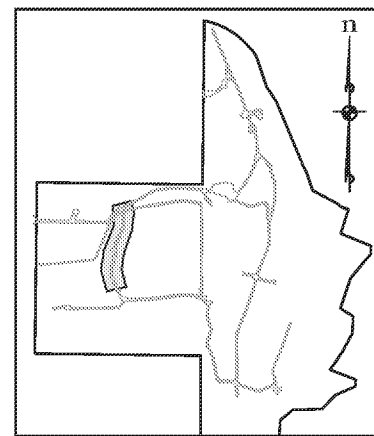
REDUCE GRAVEL ROAD TO ±10' WIDTH



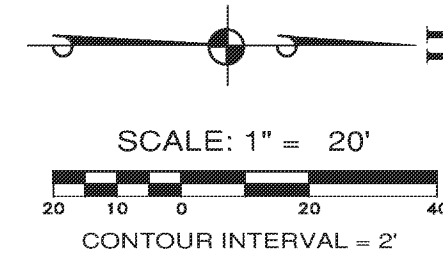
FARM GRAVEL ROAD SECTION

NOT TO SCALE

NOTE: This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of waters of the U.S.



KEY MAP



REVISIONS			
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1	EPA COMMENTS 10/14/2015	ESM	



STATE OF WASHINGTON
REGISTERED
LANDSCAPE ARCHITECT
Leanne E. Kuhlman
LEANNE E. KUHLMAN
CERTIFICATE No. 743

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GUNSHY MANOR FARM

EPA DRAFT WORK PLAN

KING COUNTY

WASHINGTON

JOB NO.: 1359-001-012
DWG. NAME: EN-04
DESIGNED BY: EGM
DRAWN BY: LDK
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DATE: 10/14/2015
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EN-04

4 OF 6 SHEETS

File: \\Farm\eng\ESM-005A\1359\001\007\p00a\PA\PA-05.dwg
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Plotted By: Jeff Finn

SEE SHEET EN-04

SEE SHEET EN-06

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SEE VIEW BELOW

SEE VIEW ABOVE

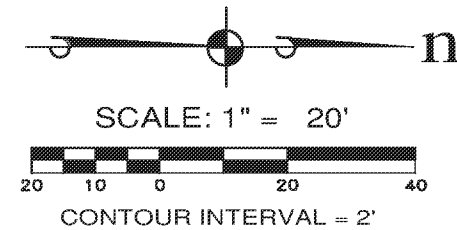
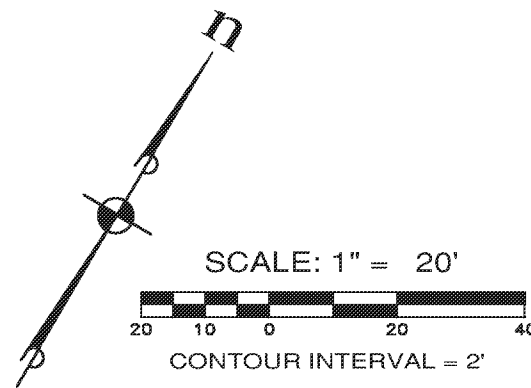
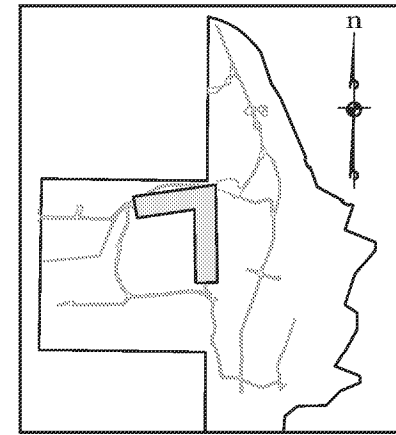


TABLE OF MITIGATION / RESTORATION SEQUENCE FOR WORK AREAS

© PLANT NATIVE SPECIES EVERGREEN TREES TO PROVIDE SHADE AND REDUCTION OF WATER TEMPERATURE PER APPROVED KING CONSERVATION DISTRICT FARM CONSERVATION PLAN. SEE VEGETATION PLAN PREPARED BY TALASAEA CONSULTANTS FOR DETAIL.



KEY MAP

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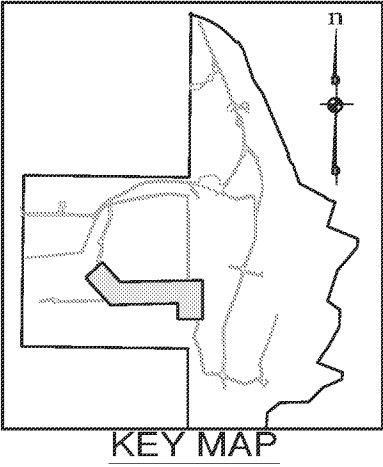
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5 OF 6 SHEETS	

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SCALE: 1" = 20'



CONTOUR INTERVAL = 2'

TABLE OF MITIGATION / RESTORATION SEQUENCE FOR WORK AREAS

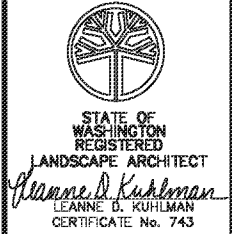
(D) PLANT NATIVE SPECIES EVERGREEN TREES TO PROVIDE SHADE AND REDUCTION OF WATER TEMPERATURE PER APPROVED KING CONSERVATION DISTRICT FARM CONSERVATION PLAN. SEE VEGETATION PLAN PREPARED BY TALASEA CONSULTANTS FOR DETAIL.


(G) 1. MULCH EXISTING GRAVEL (±5" DEEP) OUTSIDE OF 10' GRAVEL FARM ROAD TO MIX WITH UNDERLYING SOILS TO A DEPTH OF ±12".

2. GRADE DISTURBED AREAS TO DRAIN AND ROLL TO SMOOTH.

3. HYDROSEED DISTURBED AREAS W/ PASTURE SEED MIX.


NOTE: This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of waters of the U.S.

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WASHINGTON

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DWG. NAME:	EN-06
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CHECKED BY:	
DATE:	10/14/2015
DATE OF PRINT:	

EN-06

6 OF 6 SHEETS

DRAFT VEGETATION PLAN

GUNSHY MANOR KING COUNTY, WASHINGTON

Prepared For:

THE ESTATE OF BARBARA J. NELSON.
Redmond, Washington

Prepared By:

TALASAEA CONSULTANTS, INC.
Woodinville, Washington

February 4th, 2016



February 4, 2016

Tal-1147

Mr. Buff Nelson
Estate of Barbara J. Nelson
16508 NE 79th Street
Redmond, WA 98052

REFERENCE: Gunshy Manor Farm Property

SUBJECT: Draft Vegetation Plan – Letter of Explanation

Dear Buff:

This letter provides some additional context to the attached Draft Vegetation Plan (Figure TC-1) for the Gunshy Manor farm property. This Draft Vegetation Plan provides additional diversity and complexity to the EPA Final Restoration Work Plan dated August 11th, 2015 (Figure EPA-1).

Gunshy Manor is an existing and fully functioning farm with a rich history. Because there is already considerable loss of valuable farmland in the Vegetation Plan, we have taken care to ensure that the vegetation not functionally interfere with the maintenance and operations of the farm and have avoided causing additional loss of farming land. The additional areas of vegetation take into account the need to preserve farmland and are consistent with and support the neighborhood's history of a rustic and pastoral environment. Our proposed additional shrubs and trees add diversity and complexity to the planting areas.

The mitigation areas outlined below reference Figure EPA-1. The location of the proposed supplemental vegetation communities is reflected in the Draft Vegetation Plan (Figure TC-1) and its associated figures:

Mitigation Area A (Figure EPA-1):

- Farm Ditch D1 shall be realigned (see civil plans) and planted with a variety of native trees/shrub species to enhance habitat complexity. **See Figure 1: Proposed Planting Community 1** for more information of conceptual plant spacing and arrangement.

Mitigation Area B (Figure EPA-1):

- Wetland Area B: See civil plans for restoration dated on 11 August 2015, with work completed in August 2015.

Mitigation Area C (Figure EPA-1):

- West of Wetland Area B: Area adjacent to Evans Creek and Red Brick Road. This is a High Visual Impact area. **See Figure 3: Proposed Planting Community 3** for more information of conceptual plant spacing and arrangement.
 - Create shading of Evans Creek for anadromous fish habitat.
 - Plant wet adapted species throughout riparian habitat area.
 - Plant understory shrubs in existing vegetated areas
 - Create access routes (approx. 10-foot wide, and 45 feet O.C.) in-between planting islands for farm maintenance.
- Confluence Farm Ditch 1 & 2: Area adjacent to Wetland Area B. Must be wet adapted due to seasonal high water table and periodic flooding from Evans Creek. **See Figure 2: Proposed Planting Community 2** for more information of conceptual plant spacing and arrangement.
 - Create shading of Ditch 2 for anadromous fish habitat.
 - Plant wet adapted species throughout riparian habitat area.
- Farm Ditch 2: Area adjacent to Thompson Field. Must not shade out fields due to agricultural production needs. **See Figure 4: Proposed Planting Community 4** for more information of conceptual plant spacing and arrangement.
 - Create shading of Farm Ditch 2 for anadromous fish habitat.
 - Plant predominately coniferous species throughout riparian habitat area.
 - Create access routes (approx. 10-foot wide, and 45 feet O.C.) in-between planting islands for farm maintenance.
 - Apply soil amendments as needed.

The EPA Final Restoration Work Plan proposed planting of approximately 200 coniferous trees along the farm ditches that require shade for anadromous fish habitat (see civil plans by ESM).

The **Proposed Planting Communities 1, 2, 3, and 4** contain approximately 125 trees, in addition to approximately 500 shrubs that, in combination, promote the desired habitat complexity and diversity.

Mr. Buff Nelson
Estate of Barbara J. Nelson
4 February 2016
Page 3 of 5

If you have any questions or need any additional information, please contact me as soon as possible via email at bshiels@talasaea.com or via phone at 425-861-7550.

Sincerely,

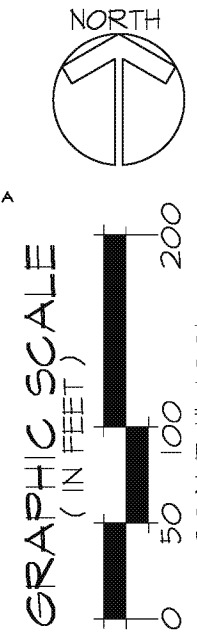
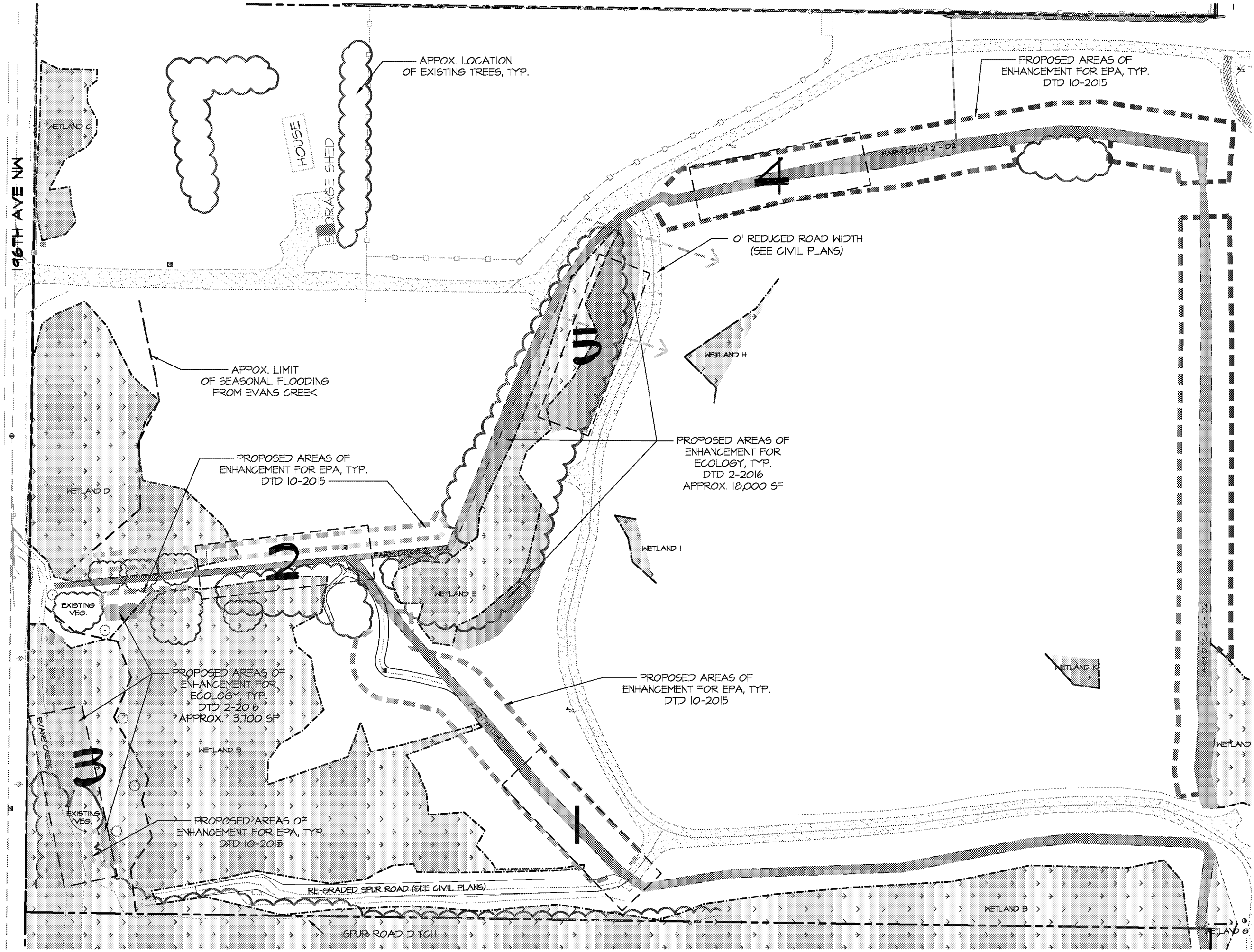
TALASAEA CONSULTANTS, INC.

William E. Shiels
Principal

Attachments:

- Figure TC-1: Draft Vegetation Plan
- Figure EPA-1: EPA Final Restoration Work Plan, prepared by ESM, dated 8-11-2015
- Figures 1, 2, 3, and 4: Proposed Planting Community
- Figure 5: Candidate Plant List
- Plant Illustrations

cc: Lori Terry Gregory, Foster Pepper
Eric LaBrie, ESM Consulting Engineers
David Halinen, P.E., Esq.
File



THIS DIAGRAM IS FOR GENERAL ORIENTATION PURPOSES AND DOES NOT REFLECT AN EPA APPROVED WETLAND DELINEATION OR A DETERMINATION OF THE GEOGRAPHIC EXTENT OF WATERS OF THE U.S.

Z:\DRAWING\1100-1199\TAL1147\TAL-1147 WP EPA&ECOLOGY.dwg

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LEGEND

ENHANCEMENT AREAS FOR EPA

ENHANCEMENT AREAS FOR ECOLOGY

TALASAEA CONSULTANTS, INC.
Resource & Environmental Planning
15020 Bear Creek Road, Northeast
Woodinville, Washington 98077
Bus (425)661-7550 - Fax (425)661-7549

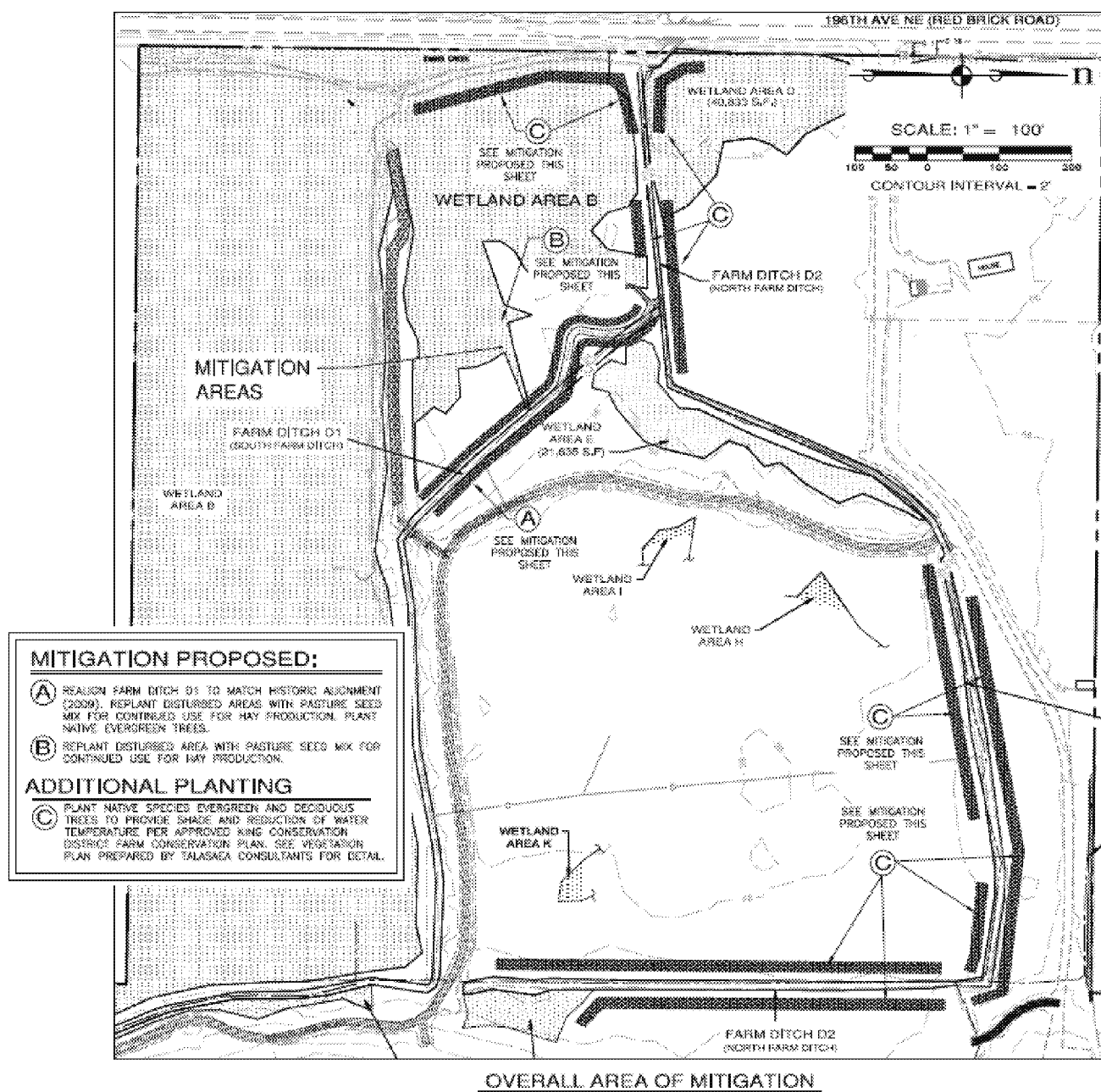
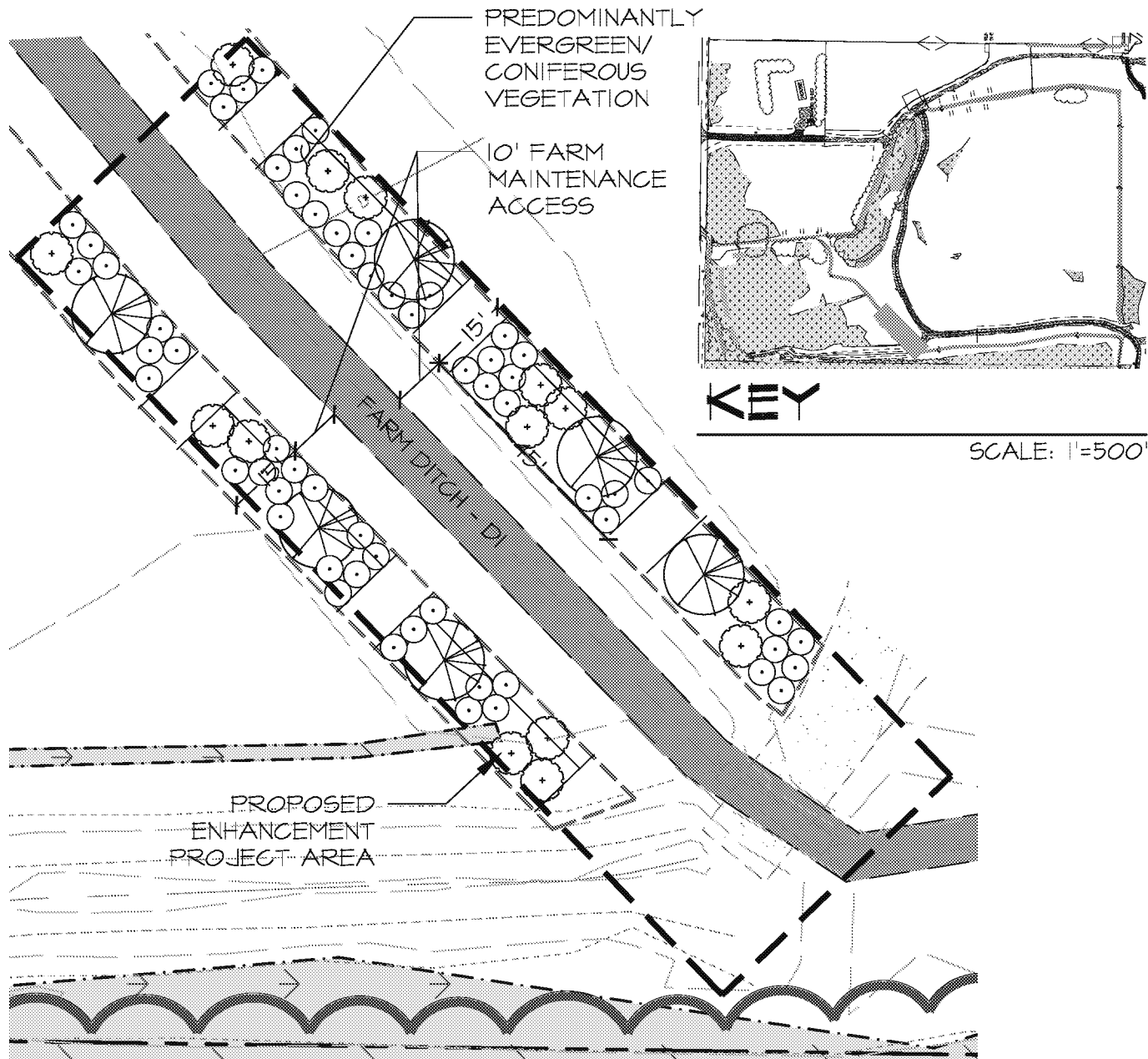


Figure EPA-1: EPA Final Restoration Work Plan prepared by ESM, dated 8-11-2015
(Sheet EN02 (clip only)).

This diagram is for general purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of Waters of the U.S.



PLANTING COMMUNITY I

SEE CANDIDATE PLANT LIST ON FIGURE 5

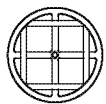
GRAPHIC SCALE
(IN FEET)



SCALE: 1"=30'



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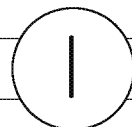
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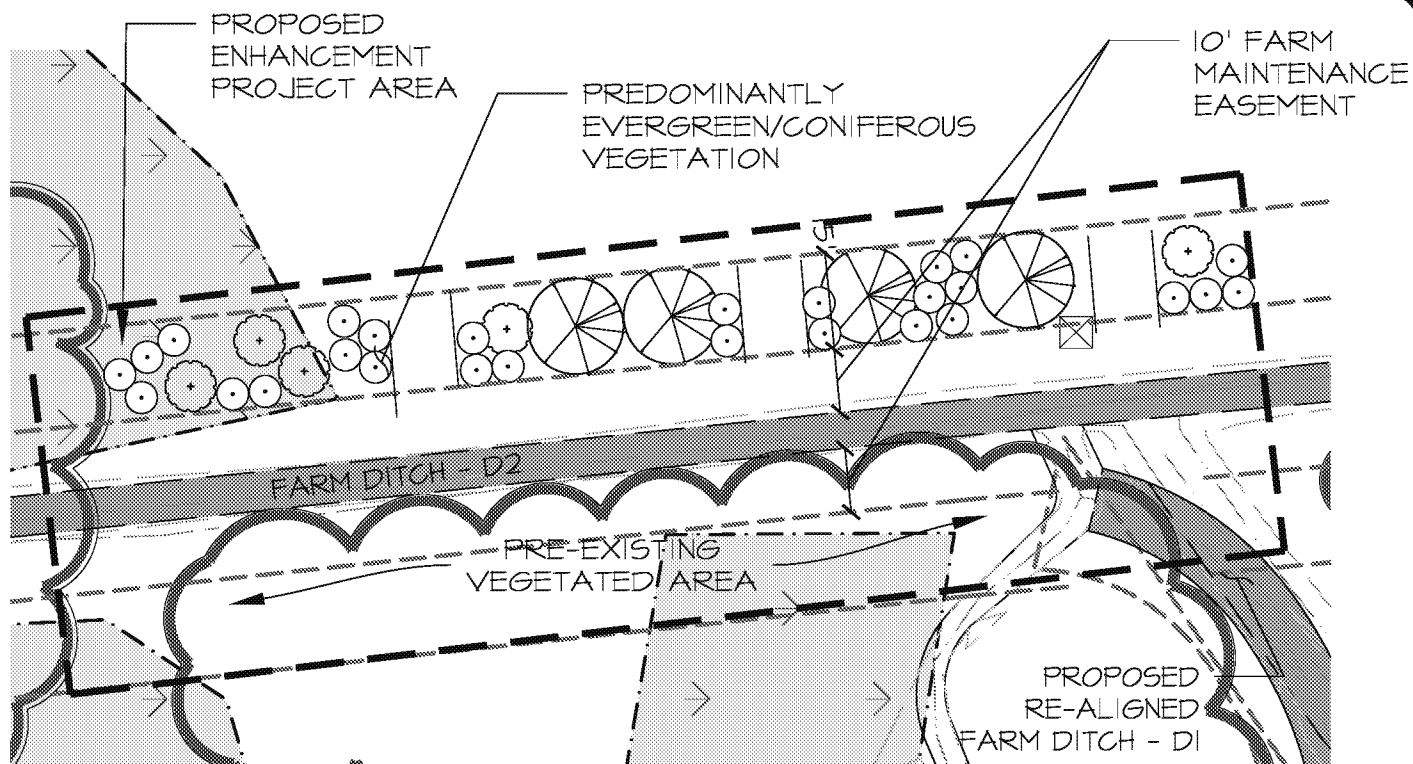
Resource & Environmental Planning
15020 Bear Creek Road Northeast
Woodinville, Washington 98077
Bus (425)861-7550 - Fax (425)861-7549

FIGURE #1

PROPOSED PLANTING COMMUNITY I
GUNSHY MANOR
REDMOND, WASHINGTON

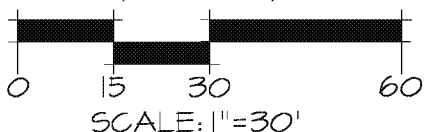
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10-13-2015		
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PLANTING COMMUNITY 2

GRAPHIC SCALE
(IN FEET)



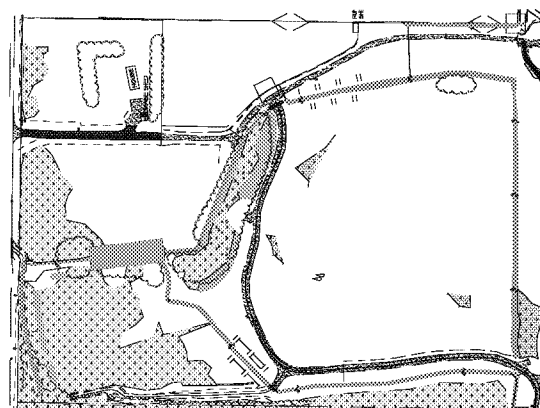
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○ MASSING SHRUB

⊕ LARGE SHRUB/SMALL TREE

⊗ CONIFEROUS TREE

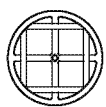
SEE CANDIDATE PLANT LIST ON FIGURE 5



KEY

SCALE: 1"=500'

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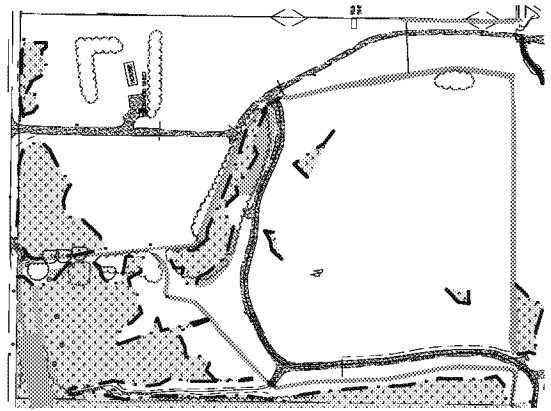
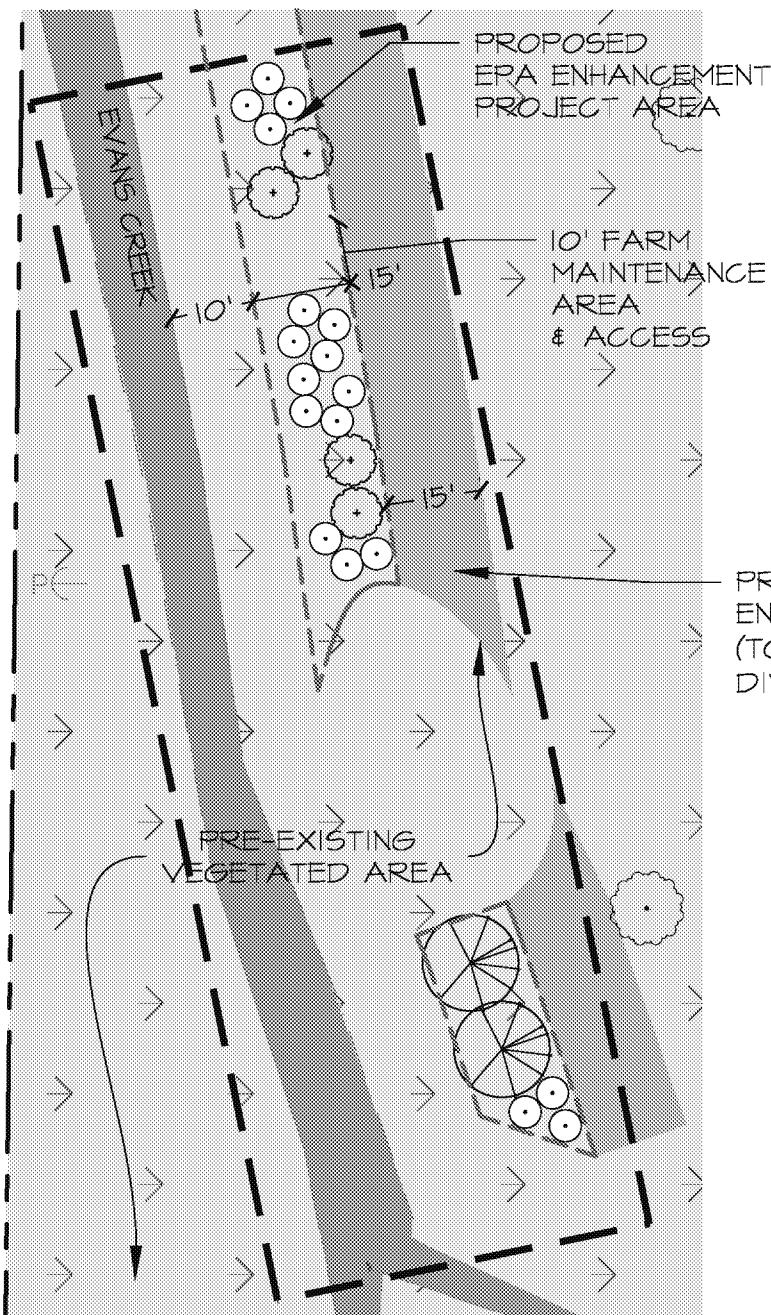
Resource & Environmental Planning
15020 Bear Creek Road Northeast
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FIGURE #2

PROPOSED PLANTING COMMUNITY 2
GUNSHY MANOR
REDMOND, WASHINGTON

DESIGN	DRAWN	PROJECT
BS	ABS	1147
SCALE		
AS SHOWN		
DATE		
10-13-2015		
REVISED		

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KEY

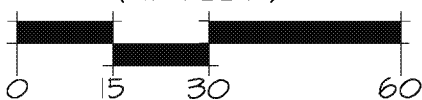
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PROPOSED ECOLOGY ENHANCEMENT PROJECT AREA (TO MATCH EPA PLANT MATERIAL DIVERSITY AND DENSITY)

PLANTING COMMUNITY 3

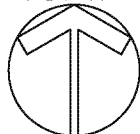
SEE CANDIDATE PLANT LIST ON FIGURE 5

GRAPHIC SCALE
(IN FEET)

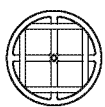


SCALE: 1"=30'

NORTH



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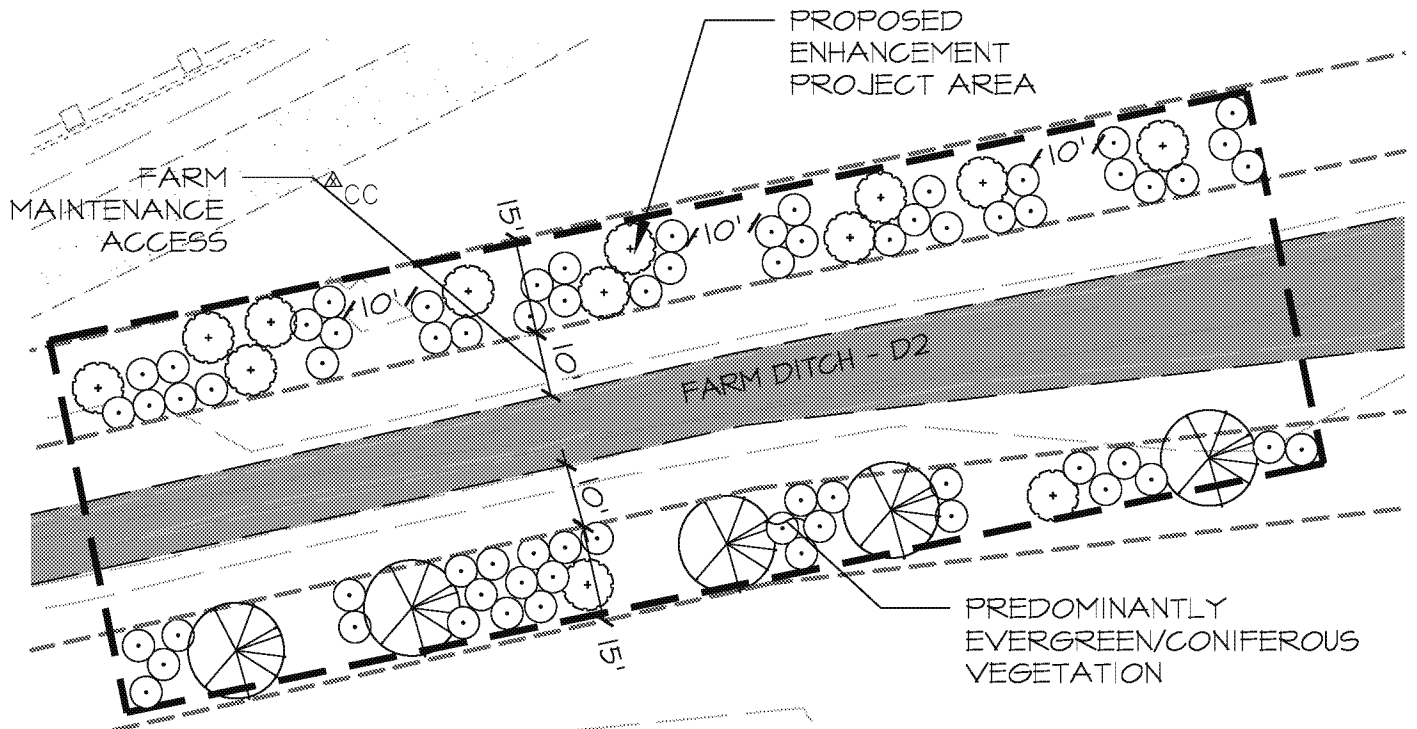
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Bus (425)861-7550 - Fax (425)861-7549

FIGURE #3

PROPOSED PLANTING COMMUNITY 3
GUNSHY MANOR
REDMOND, WASHINGTON

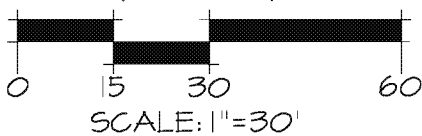
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PLANTING COMMUNITY 4

GRAPHIC SCALE
(IN FEET)



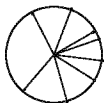
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MASSING SHRUB

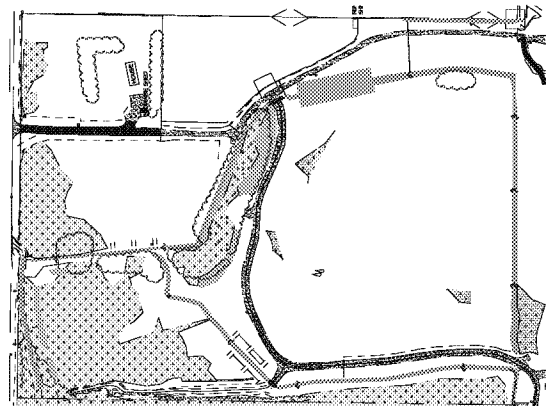


LARGE SHRUB/SMALL TREE



CONIFEROUS TREE

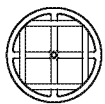
SEE CANDIDATE PLANT LIST ON FIGURE 5



KEY

SCALE: 1"=500'

THIS DIAGRAM IS FOR GENERAL ORIENTATION PURPOSES AND DOES NOT REFLECT AN EPA APPROVED WETLAND DELINEATION OR A DETERMINATION OF THE GEOGRAPHIC EXTENT OF WATERS OF THE U.S.



TALASAEA
CONSULTANTS, INC.

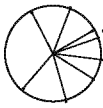
Resource & Environmental Planning
15020 Bear Creek Road Northeast
Woodinville, Washington 98077
Bus (425)861-7550 - Fax (425)861-7549

FIGURE #4

PROPOSED PLANTING COMMUNITY 4
GUNSHY MANOR
REDMOND, WASHINGTON

DESIGN	DRAWN	PROJECT
BS	ABS	1147
SCALE		
AS SHOWN		
DATE		
10-13-2015		
REVISED		

4



CANDIDATE PLANT LIST

CONIFEROUS TREES

SCIENTIFIC NAME	COMMON NAME	WL STATUS	SPACING	SIZE (MIN.)	NOTES
PICEA SITCHENSIS	SITKA SPRUCE	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY
PINUS CONTORTA VAR. CONTORTA	SHORE PINE	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY
THUJA PLICATA	WESTERN RED CEDAR	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY



SMALL DECIDUOUS TREE/LARGE SHRUB

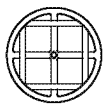
SCIENTIFIC NAME	COMMON NAME	WL STATUS	SPACING	SIZE (MIN.)	NOTES
ACER CIRCINATUM	VINE MAPLE	FAC	AS SHOWN	24" HT.	SINGLE TRUNK
CRATAEGUS DOUGLASII	BLACK HAWTHORN	FAC	AS SHOWN	24" HT.	SINGLE TRUNK
MAHONIA AQUIFOLIUM	OREGONGRAPE	FACU	AS SHOWN	24" HT.	SINGLE TRUNK
PHYSOCARPUS CAPITATUS	PACIFIC NINEBARK	FACW	AS SHOWN	24" HT.	SINGLE TRUNK
VIBURNUM EDULE	HIGH-BUSH CRANBERRY	FACW	AS SHOWN	24" HT.	SINGLE TRUNK



MASSING SHRUB

SCIENTIFIC NAME	COMMON NAME	WL STATUS	SPACING	SIZE (MIN.)	NOTES
CORNUS SERICEA	RED-OSIER DOGWOOD	FACW	4' O.C.	NA	4' CUTTING
LONICERA INVOLUCRATA	BLACK TWIN-BERRY	FAC	4' O.C.	NA	4' CUTTING
ROSA NUTKANA	NOOTKA ROSE	FAC	4' O.C.	18" HT.	MULTI-CANE (3 MIN.)
ROSA PISOCARPA	CLUSTERED WILD ROSE	FAC	4' O.C.	18" HT.	MULTI-CANE (3 MIN.)
SYMPHORICARPOS ALBUS	COMMON SNOWBERRY	FACU	4' O.C.	NA	4' CUTTING
VACCINIUM OVATUM	EVERGREEN HUCKLEBERRY	FACU	4' O.C.	18" HT.	MULTI-CANE (3 MIN.)

NOTE: PLANT SPECIES ARE SUBJECT TO CHANGE DUE TO AVAILABILITY OF PLANT STOCK AT TIME OF PLANTING AND ENVIRONMENTAL CONSTRAINTS.



TALASAEA
CONSULTANTS, INC.

Resource & Environmental Planning
15020 Bear Creek Road Northeast
Woodinville, Washington 98077
Bus (425)861-7550 - Fax (425)861-7549

FIGURE #5

CANDIDATE PLANT LIST
GUNSHY MANOR
REDMOND, WASHINGTON

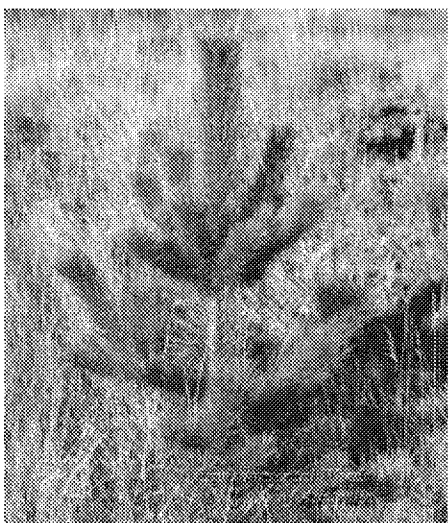
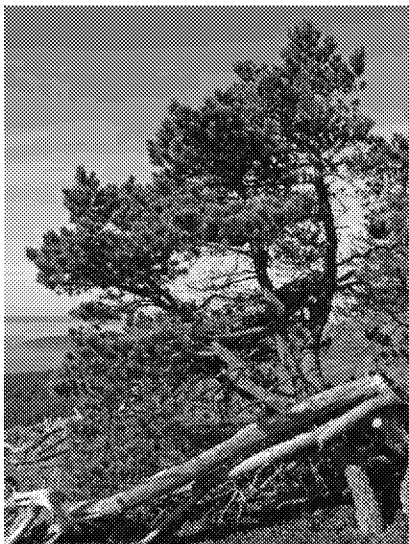
DESIGN	DRAWN	PROJECT
BS	ABS	1147
SCALE		
AS SHOWN		
DATE		
10-13-2015		
REVISED		

5

Native Plant Example

Conifer

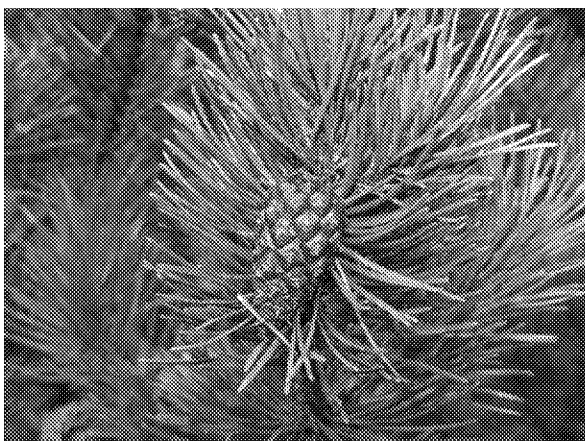
Pinus contorta var. *contorta*
(Shore Pine)



Sapling



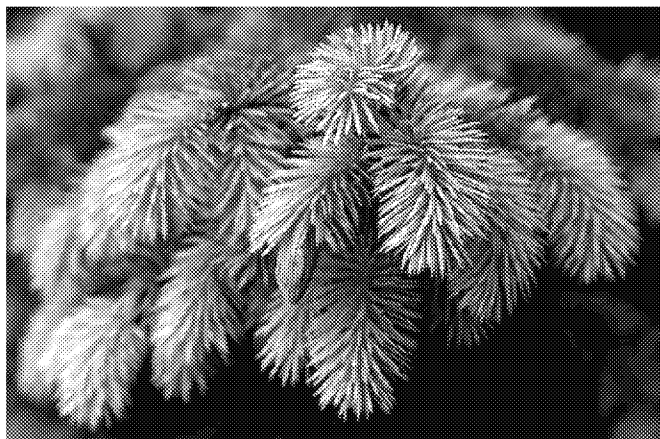
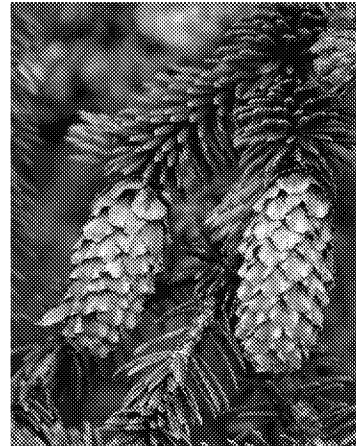
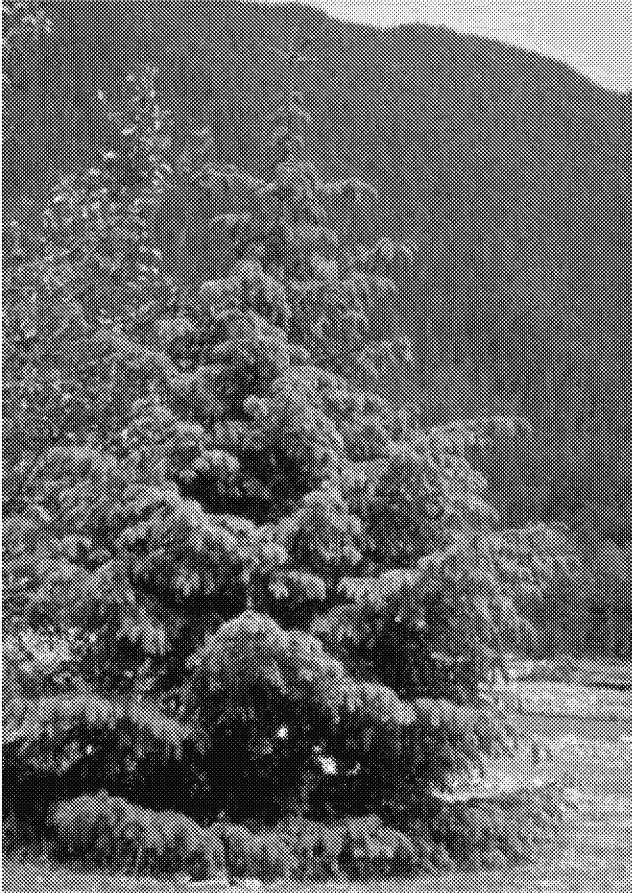
Bark



Native Plant Example

Conifer

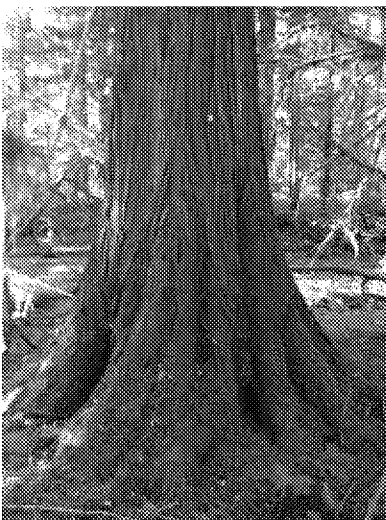
Sitka Spruce
(*Picea sitchensis*)



Native Plant Example

Conifer

Western Red Cedar
(*Thuja Plicata*)



Native Plant Example

Riparian / Wetland Shrub

Pacific Ninebark (*Physocarpus capitatus*)



Mature plant



Spring flowers



Fruit



Spring flowers

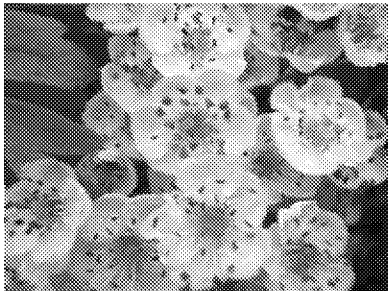


Fall color

Native Plant Example

Small Tree/Large Shrub

Black Hawthorn
(*Crataegus douglasii*)



Native Plant Example

Riparian / Wetland Shrub

Highbush Cranberry (*Viburnum edule*)



Mature plant



Fruit & fall color



Spring flowers



Spring foliage

Native Plant Example

Riparian / Wetland Shrub

Red-osier Dogwood (*Cornus sericea*)



Red stem color visible after leaf drop



Spring flowers



Fall color



Mature plant with summer foliage

Native Plant Example

Medium Upland Shrub

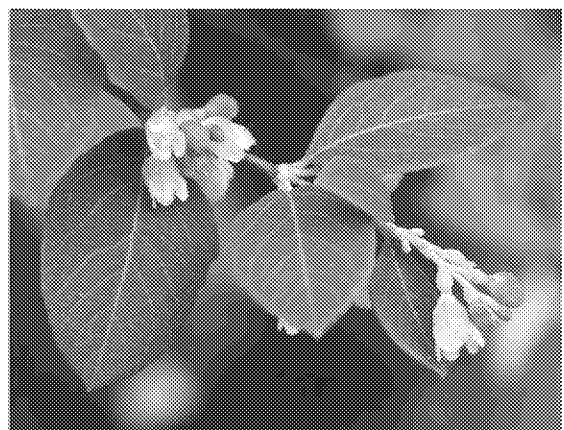
Snowberry (*Symphoricarpos albus*)



Mature plant



Fruit



Spring flowers

Native Plant Example

Medium Shrub

Rose Species

(*Rosa gymnocarpa*, *Rosa nutkana*, *Rosa pisocarpa*)



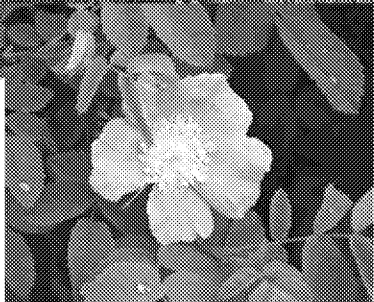
Rosa gymnocarpa



Rosa gymnocarpa



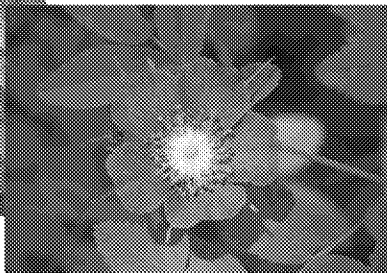
Rosa nutkana



Rosa nutkana



Rosa pisocarpa



Rosa pisocarpa

Native Plant Example

Small Deciduous Tree

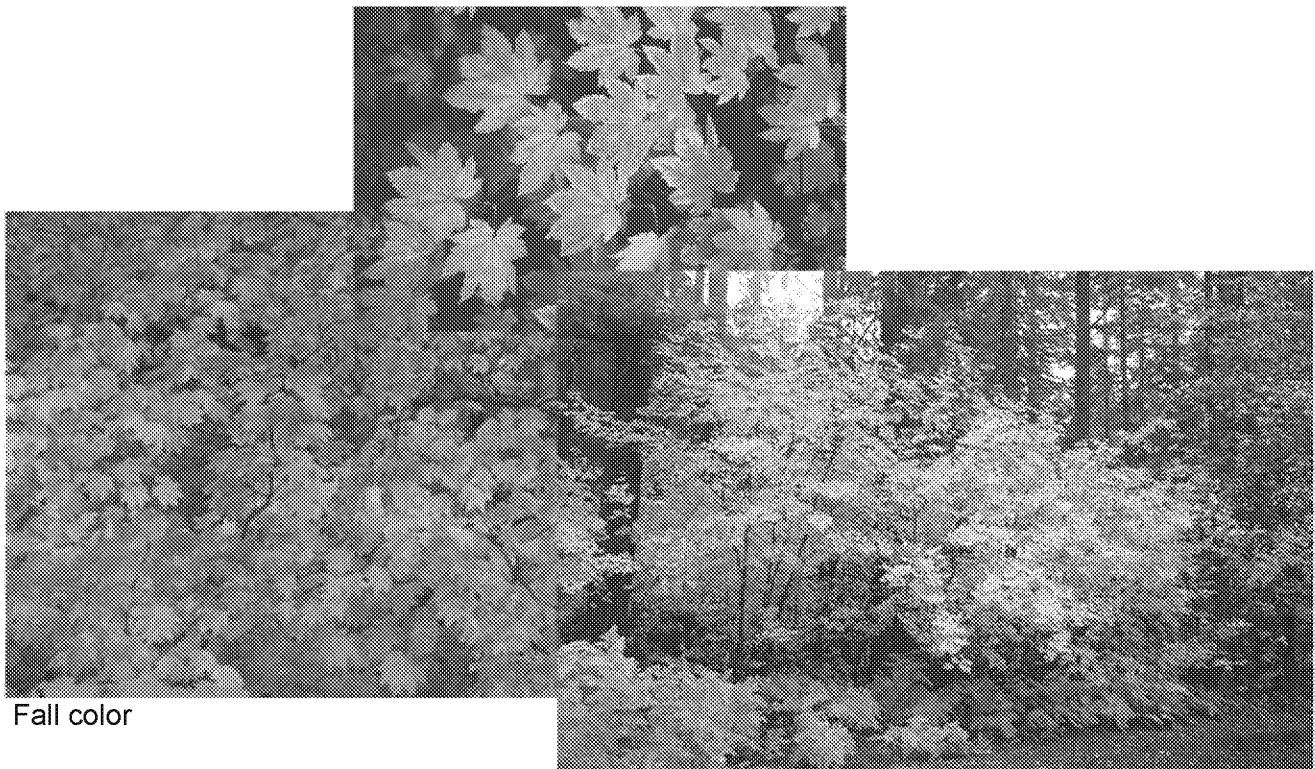
Vine Maple
(*Acer circinatum*)



Summer foliage



Landscape setting



Fall color

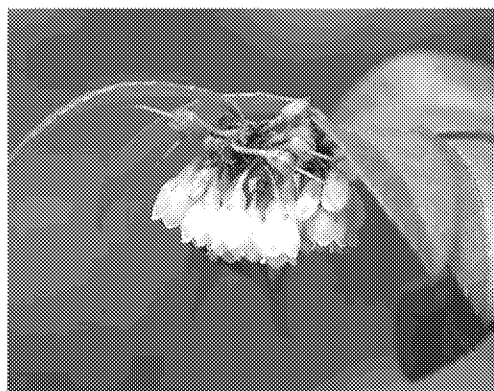
Native Plant Example

Medium Upland Shrub

Evergreen Huckleberry (*Vaccinium ovatum*)



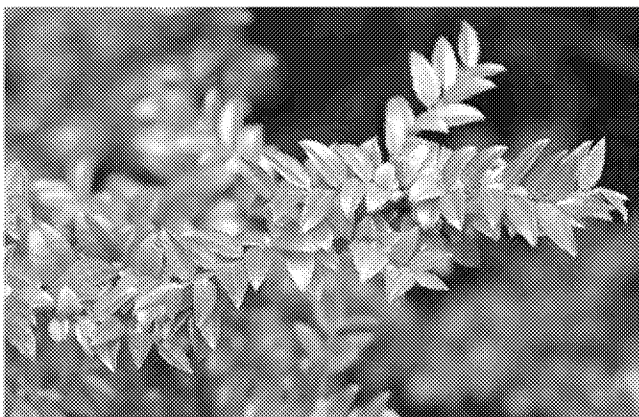
Mature plant



Spring flowers



Summer fruit



Bronze new growth



Reddish winter color

Native Plant Example

Large Upland Shrub

Tall Oregon Grape (*Mahonia aquifolium*)



Mature plant in spring bloom



Spring flowers



Summer fruit

[DATE]

Ms. Michelle Walker
Chief, Regulatory Branch
U.S. Army Corps of Engineers – Seattle District
Post Office Box 3755
Seattle, Washington 98124-3755

Re: Request for Nationwide Permit 32 Verification; Docket No. CWA-2016-0088

William C. Nelson, Jr. and the Estate of Barbara Nelson
7240 196th Avenue, Redmond, Washington, 98053

Dear Ms. Walker:

I am writing to request the Corps to verify that the restoration and mitigation project at the above-referenced Property is authorized by Nationwide Permit 32 (NWP 32). This request is made to comply with the provisions of the Administrative Compliance Order on Consent entered into between William C. Nelson, Jr. and the Estate of Barbara Nelson and the U.S. Environmental Protection Agency dated _____ 2016, CWA-10-2016-0088, and enclosed with this letter. I have also enclosed a Joint Aquatic Resources Project Application form and supporting documents, such as drawings.

I understand that this verification would remain valid until the current NWP 32 expires (currently, March 18, 2017) provided I comply with all applicable terms and conditions of the NWP 32 verification, including any special conditions, and the terms of the consent Order.

Please send the NWP 32 verification letter to: [Mailing Address]

Sincerely,

[Name]

Enclosures

Message

From: Lori Terry [TerrL@foster.com]
Sent: 2/4/2016 7:16:42 PM
To: 'Anderson, Paul S. (ECY)' [paan461@ECY.WA.GOV]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Stephanie Weir [WeirS@foster.com]; Wolfman, Sonia (ATG) [SoniaW@ATG.WA.GOV]
Subject: RE: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408
Attachments: TAL-1147 TC-1 Vegetation Plan_2-4-2016 update.pdf

Thanks, Paul. My client is interested in an agreed order. Attached is a copy of the proposed revised Vegetation Plan, which depicts the areas associated with Ecology's settlement and EPA's settlement. With regard to Ecology's enhancement areas, we have slightly adjusted our proposal. We are providing 3,700 sq. ft. along Evans Creek and 18,000 sq. ft. in Wetland E. Because of the site constraints in the NW corner of Wetland B due to existing vegetation, we have moved 600 sq. ft. of the 3,700 sq. ft. due east and immediately south of Ditch 2. We have also made a few adjustments to the EPA enhancement areas based on a recent site visit to determine existing conditions. Please let me know if you have any questions.

Lori

From: Anderson, Paul S. (ECY) [mailto:paan461@ECY.WA.GOV]
Sent: Tuesday, January 26, 2016 3:23 PM
To: Lori Terry
Cc: Szalay, Endre; Stephanie Weir; Wolfman, Sonia (ATG)
Subject: Re: Gunshy Manor Farm Settlement - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Thanks Lori.

I have consulted with our enforcement lead at Ecology at HQ and I think we would like to explore the option of an agreed order. Is that something that would be of interest to you and your client?

Paul

Sent from my iPhone

On Jan 26, 2016, at 2:59 PM, "Lori Terry" <TerrL@foster.com> wrote:

Paul,

Thank you for your email. This email confirms that we have an agreement in principle to settle Ecology's NOV as set forth in my email of January 25, 2016, below. Our client will update the following two documents, provided to you at the October 15, 2015 meeting, to reflect the two additional areas of enhancement plantings:

- Revised Vegetation Plan – Talasaea, October 12, 2015
- EPA Final Work Plan – ESM, October 14, 2015

We hope to be able to send the revised documents to you by the end of next week.

Lori & Stephanie

From: Anderson, Paul S. (ECY) [<mailto:paan461@ECY.WA.GOV>]
Sent: Monday, January 25, 2016 4:00 PM
To: Lori Terry
Cc: 'Szalay, Endre'; Stephanie Weir; Wolfman, Sonia (ATG)
Subject: RE: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION;
SUBJECT TO ER 408 & FRE 408

Lori:

Thanks for getting back to me with your client's response. This is good news and we look forward to receiving the updated scope of work/restoration plan and getting this wrapped up.

Please let me know if you have any other questions.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [<mailto:TerrL@foster.com>]
Sent: Monday, January 25, 2016 11:52 AM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>
Cc: 'Szalay, Endre' <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>
Subject: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION;
SUBJECT TO ER 408 & FRE 408

*CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBJECT TO ER 408 AND FRE 408*

Sonia and Paul,

Thank you for the call on Thursday, January 21st. After discussing your offer with our client, while we disagree with Ecology's position on the boundary of Wetland C, we are pleased that we can accept your offer to resolve this matter through enhancement plantings. The following contains an outline of our proposed settlement:

First, we will agree to widen the area of enhancement plantings along Evans Creek in the Summer Pasture from 15' to 30' wide, which adds an additional area of approximately 3,700 square feet of enhancement area plantings. Because the enhancement will occur in Wetland B, which is a Category I rated wetland that is adjacent to Evans Creek, the enhancement will provide significant ecologic benefits. Second, we will provide enhancement plantings in and around Wetland E, between the Loop Farm Road and Farm Ditch 2, adding an area of approximately 18,000 square feet of enhancement plantings. Our offer provides a total area of enhancement of approximately ½ acre. The enhancement plantings in each area described above will have the same planting densities and species as previously described in the Revised Vegetation Plan.

Because a portion of the proposed enhancement will occur in Wetland B, which is a wetland of higher quality than the double-wide pasture, adjacent to Evans Creek, and will increase the density of plantings in and near Wetland E, we expect significant water quality benefits from our proposal.

The settlement will be made without any admission of liability and will resolve Ecology's outstanding NOV. We are evaluating whether to include the settlement within the EPA settlement documents.

We look forward to hearing from you regarding our proposal. Thank you.

Lori & Stephanie

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com

1111 Third Ave., Suite 3400

Seattle, WA 98101

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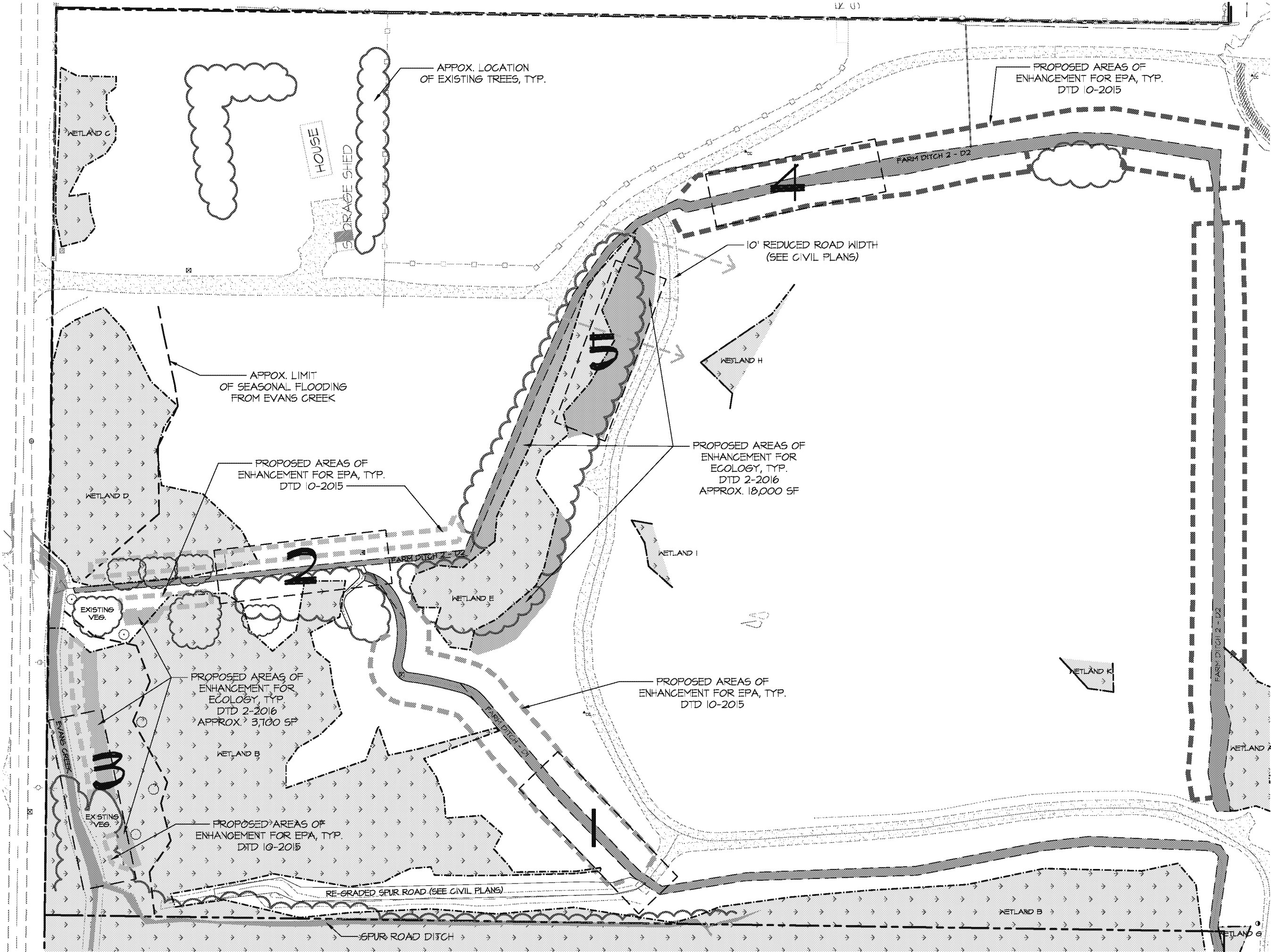
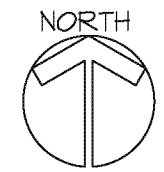
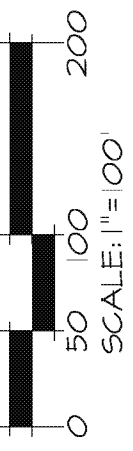


FIGURE TC-1

PROPOSED VEGETATION PLAN

GUNSHY MANOR - TAL1147

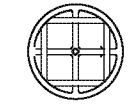
GRAPHIC SCALE
(IN FEET)



Z:\DRAWING\1100-1199\TAL1147\TAL-1147 FIGURES_TC1_2-2016.dwg

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LEGEND



TALASAEA
CONSULTANTS, INC.
Resource & Environmental Planning
15020 Bear Creek Road Northeast
Woodinville, Washington 98077
Bus (425)861-7550 - Fax (425)861-7549

Message

From: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Sent: 1/26/2016 11:23:09 PM
To: Lori Terry [TerrL@foster.com]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Stephanie Weir [WeirS@foster.com]; Wolfman, Sonia (ATG) [SoniaW@ATG.WA.GOV]
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Sent: Monday, January 25, 2016 4:00 PM
To: Lori Terry
Cc: 'Szalay, Endre'; Stephanie Weir; Wolfman, Sonia (ATG)
Subject: RE: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

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Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology

3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

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Sent: Monday, January 25, 2016 11:52 AM

To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>

Cc: 'Szalay, Endre' <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>

Subject: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION;
SUBJECT TO ER 408 & FRE 408

CONFIDENTIAL SETTLEMENT COMMUNICATION

SUBJECT TO ER 408 AND FRE 408

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We look forward to hearing from you regarding our proposal. Thank you.

Lori & Stephanie

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrL@foster.com

1111 Third Ave., Suite 3400

Seattle, WA 98101

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Message

From: Lori Terry [TerrL@foster.com]
Sent: 1/26/2016 11:00:46 PM
To: 'Anderson, Paul S. (ECY)' [paan461@ECY.WA.GOV]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Stephanie Weir [WeirS@foster.com]; Wolfman, Sonia (ATG) [SoniaW@ATG.WA.GOV]
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To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>
Cc: 'Szalay, Endre' <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>
Subject: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBJECT TO ER 408 AND FRE 408

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Message

From: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Sent: 1/26/2016 12:00:02 AM
To: Lori Terry [TerrL@foster.com]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Stephanie Weir [WeirS@foster.com]; Wolfman, Sonia (ATG) [SoniaW@ATG.WA.GOV]
Subject: RE: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Lori:

Thanks for getting back to me with your client's response. This is good news and we look forward to receiving the updated scope of work/restoration plan and getting this wrapped up.

Please let me know if you have any other questions.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [mailto:TerrL@foster.com]
Sent: Monday, January 25, 2016 11:52 AM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>
Cc: 'Szalay, Endre' <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>
Subject: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

*CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBJECT TO ER 408 AND FRE 408*

Sonia and Paul,

Thank you for the call on Thursday, January 21st. After discussing your offer with our client, while we disagree with Ecology's position on the boundary of Wetland C, we are pleased that we can accept your offer to resolve this matter through enhancement plantings. The following contains an outline of our proposed settlement:

First, we will agree to widen the area of enhancement plantings along Evans Creek in the Summer Pasture from 15' to 30' wide, which adds an additional area of approximately 3,700 square feet of enhancement area plantings. Because the enhancement will occur in Wetland B, which is a Category I rated wetland that is adjacent to Evans Creek, the enhancement will provide significant ecologic benefits. Second, we will provide enhancement plantings in and around Wetland E, between the Loop Farm Road and Farm Ditch 2, adding an area of approximately 18,000 square feet of enhancement plantings. Our offer provides a total area of enhancement of approximately ½ acre. The enhancement plantings in each area described above will have the same planting densities and species as previously described in the Revised Vegetation Plan.

Because a portion of the proposed enhancement will occur in Wetland B, which is a wetland of higher quality than the double-wide pasture, adjacent to Evans Creek, and will increase the density of plantings in and near Wetland E, we expect significant water quality benefits from our proposal.

The settlement will be made without any admission of liability and will resolve Ecology's outstanding NOV. We are evaluating whether to include the settlement within the EPA settlement documents.

We look forward to hearing from you regarding our proposal. Thank you.

Lori & Stephanie

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com

1111 Third Ave., Suite 3400

Seattle, WA 98101

Confidential Attorney-Client Communication. IF YOU RECEIVED THIS EMAIL BY MISTAKE,
PLEASE DO NOT READ IT. Reply to sender (or postmaster@foster.com) and delete this mail.

Message

From: Lori Terry [TerrL@foster.com]
Sent: 1/25/2016 7:51:42 PM
To: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]; 'soniaw@atg.wa.gov' [soniaw@atg.wa.gov]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Stephanie Weir [WeirS@foster.com]
Subject: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Flag: Follow up

*CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBJECT TO ER 408 AND FRE 408*

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Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrL@foster.com

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Seattle, WA 98101

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Message

From: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Sent: 1/22/2016 7:02:03 PM
To: Rave-Perkins, Krista [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=785ba3699a0f4d42989fba22e659ce74-Rave-Perkins, Krista]; Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: FW: wetland review
Attachments: Letter-048.pdf

Flag: Follow up

Krista & Endre:

An update, via Nick Gillen, on the Gunshy Manor wetland review.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Gillen, Nick [mailto:Nick.Gillen@kingcounty.gov]
Sent: Friday, January 22, 2016 10:05 AM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>
Subject: FW: wetland review

Paul,
FYI
Nick

From: Eric LaBrie [mailto:eric.labrie@esmcivil.com]
Sent: Thursday, January 21, 2016 2:51 PM
To: Gillen, Nick
Cc: Breazeal, Jeri; Pederson, Jon; Claussen, Kimberly; Buff Nelson; Bill Shiels
Subject: RE: CADS14-0327 Nelson (Gunshy) WCI letter

Hi Nick,

You'll be receiving a hard copy of the attached letter in the mail in the next couple of days. It provides a status of our efforts to date to address your concerns with the prior wetland delineation report.

Thanks,

ERIC LABRIE, A.I.C.P.
ESM Consulting Engineers, LLC
www.esmcivil.com

From: Gillen, Nick [<mailto:Nick.Gillen@kingcounty.gov>]
Sent: Tuesday, January 05, 2016 11:05 AM
To: Eric LaBrie; Pederson, Jon; Claussen, Kimberly
Cc: Breazeal, Jeri
Subject: CADS14-0327 Nelson (Gunshy) WCI letter

Eric,
I put a hard copy in the mail.
Nick



CONSULTING ENGINEERS, LLC



January 21, 2016

Job No. 1359-001-007

Mr. Nick Gillen
Environmental Scientist III
King County DPER
35030 SE Douglas Street, Ste #210
Snoqualmie, WA 98065

RE: Gunshy Manor, Critical Areas Designation
DPER File No. CADS14-0327

Dear Mr. Gillen:

Thank you for your letter of January 5, 2016 asking for an update on our progress. I believe I mentioned that in addition to resolving the Code Enforcement action with DPER, the Estate is also resolving issues with other state and federal agencies. Because of the level of coordination among various agencies, this has taken us more time than anticipated.

Since our meeting in October, Talasaea Associates has carefully reviewed their data and recently provided us with an updated report that addresses the items we discussed. In addition, while not required, the Estate has elected to retain Margaret Clancy of ESA Associates, a highly qualified professional wetland scientist, to provide an independent third-party review of the updated Talasaea report.

ESA is currently conducting their review of the report and verifying all data. ESA expects to complete their work within the next month. We plan to submit the updated Talasaea report and ESA's review shortly after our receipt.

Settlement discussions are continuing with the federal and state agencies and final resolution appears likely within 4-6 weeks.

ESM Federal Way
33400 8th Ave S, Ste 205
Federal Way, WA 98003
253.838.6113 tel
800.345.5694 toll free
253.838.7104 fax

ESM Everett
1010 SE Everett Mall Way, Ste 210
Everett, WA 98208
425.297.9900 tel
800.345.5694 toll free
425.297.9901 fax

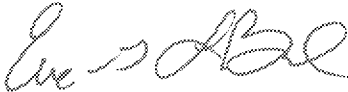
Civil Engineering	Land Planning
Land Surveying	Landscape Architecture
3D Laser Scanning	GIS
www.esmcivil.com	

Mr. Nick Gillen
January 21, 2016
Page 2

We apologize for this delay and look forward to continuing to work with you and providing you with the updated Talasaea report and ESA review in the near future.

Sincerely,

ESM CONSULTING ENGINEERS, LLC

A handwritten signature in black ink, appearing to read "Eric G. LaBrie".

ERIC G. LaBRIE, A.I.C.P.
President

Cc: Buff Nelson, Estate of Barbara J. Nelson
Lori Terry Gregory, Foster Pepper, PLLC

\\esm8\engr\esm-jobs\1359\001\007\document\letter-031.docx



Message

From: Rave-Perkins, Krista [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7858A3699A0F4D42989FBA22E659CE74-RAVE-PERKINS, KRISTA]
Sent: 2/2/2017 7:07:22 PM
To: Red Brick Road [redbrickrd@outlook.com]
CC: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: RE: 308 Request to Cascade Utilities

Okay — done. Reminder that everyone needs to go through security on the 1st floor, so no personal safety items (such as knives or pepper sprays, etc).
The agenda will be very straightforward and will cover what concerns had been expressed and actions taken to address those concerns.
Let me know if you need any additional information.
Krista

From: Red Brick Road [mailto:redbrickrd@outlook.com]
Sent: Wednesday, February 01, 2017 12:24 PM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>
Subject: RE: 308 Request to Cascade Utilities

Thanks, Krista.

We'll take the 2:00pm slot on the 9th.

From: Rave-Perkins, Krista [mailto:Rave-Perkins.Krista@epa.gov]
Sent: Tuesday, January 31, 2017 1:20 PM
To: Red Brick Road <redbrickrd@outlook.com>
Subject: RE: 308 Request to Cascade Utilities

Just heard back from Endre — so we are on for the 9th. We do have the 1:30 – 3:00 time slot but if a later time works better we can do that as well. We also have a 2:00 – 3:30 time slot open. Let me know and I can get a room. Also let me know if you plan on coming into the office or if you want to do it via phone — either would work.
Thanks again,
Krista

From: Red Brick Road [mailto:redbrickrd@outlook.com]
Sent: Tuesday, January 31, 2017 11:40 AM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>
Subject: RE: 308 Request to Cascade Utilities

Krista:

Just wanted to confirm whether we're on for the 9th, and what time.

Thanks.

From: Red Brick Road
Sent: Wednesday, January 25, 2017 8:10 PM
To: 'Rave-Perkins, Krista' <Rave-Perkins.Krista@epa.gov>
Subject: RE: 308 Request to Cascade Utilities

Correction: we'll take the 9th, as late as is reasonable in the day.

From: Red Brick Road
Sent: Wednesday, January 25, 2017 2:32 PM
To: 'Rave-Perkins, Krista' <Rave-Perkins.Krista@epa.gov>
Subject: RE: 308 Request to Cascade Utilities

Krista:

We'll take the 15th. What time?

We're still deciding whether to attend in person or to call in. Any hints on the meeting agenda?

Thanks.

From: Rave-Perkins, Krista [<mailto:Rave-Perkins.Krista@epa.gov>]
Sent: Tuesday, January 24, 2017 12:18 PM
To: Red Brick Road <redbrickrd@outlook.com>
Subject: RE: 308 Request to Cascade Utilities

Sorry for the delay in responding. Unfortunately, we would need to meet at the EPA offices due to our Atty's schedule.

Let me know if any dates work and whether you would like in person or conference call.

Thanks!

Krista

From: Red Brick Road [<mailto:redbrickrd@outlook.com>]
Sent: Friday, January 20, 2017 9:08 PM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>
Subject: RE: 308 Request to Cascade Utilities

Krista:

Thanks for reaching out to us. I'll talk to the others.

If we were to prefer an in-person conversation, would you expect to meet us at the EPA offices, or is somewhere on the east side a possibility?

From: Rave-Perkins, Krista [<mailto:Rave-Perkins.Krista@epa.gov>]
Sent: Friday, January 20, 2017 1:21 PM
To: Red Brick Road <redbrickrd@outlook.com>
Subject: RE: 308 Request to Cascade Utilities

Hello: We would like to set up a time to have either or a discussion via phone, or an in person meeting (your choice). We have been having additional conversations with Gunshy and would like to update you on the status.

We are available on one of the following dates: February 8th, 9th or 15th.

Please let me know if any of those dates work for you and a time preference (morning or afternoon) and also if you would like to meet in person or by conference call.

Thank You,

Krista Rave-Perkins, EPA
404 Enforcement Officer
206-553-6686

From: Red Brick Road [mailto:redbrickrd@outlook.com]

Sent: Sunday, August 21, 2016 10:58 PM

To: 'Anderson, Paul S. (ECY)' <paan461@ECY.WA.GOV>; Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>

Subject: RE: 308 Request to Cascade Utilities

Paul, Krista:

We've attached some follow-up data relating to the items we discussed at the meeting our community held with you at EPA offices regarding CWA-10-2016-0087.

We want to thank you for working on the additional research/disclosure items that were discussed at the meeting, concretely regarding Gunshy Manor Wetland C and the Gunshy Manor access road on 196th Ave NE. We would like to provide to you the images which capture the work that was witnessed by concerned citizens, some of whom might be available for a phone call with you in order to provide descriptions and other detailed information that might be of value to the inquiry.

The community has found new information for EPA's consideration, electrical work "respondents" ordered November 14th, 2012. The community could not find in "respondents" prior 2014 "308 Requests" any receipts/work orders/contract/etc., describing a Wetland C sump pump electrical work. The community researched further and found a "respondents" issued electrical permit from Washington State Department of Labor and Industries EP2169785, see attached PDF: "Sump Pump Permit EP2169785 New Svc.pdf". The details of that Permit explain that Nelson Properties hired Linder Electric to install an electrical service at the address of the 7240 196th Farm/Doublewide Entrance road. (picture reference #3 below). The work at that site was defined in the permit Applied for on 11/14/2012; allowing for: A) Service, B) New, C) underground, D) 240V, E) <=100A, F) AC-Approved complete, G) Pedestal, H) 1 gfci for I) pump". See Wash State Dept of Labor and Industries Electrical Permit:

<https://fortress.wa.gov/lni/epis/frmViewInspection.aspx?Permit=2008745660>

1. Before 2012 Picture: "Gunshy Pre Sump 2011 Google SV.png" = August 2011 "Google Street View" shows no pump structure, no pump electrical panel, no pump electric meter. Observation of the historical image does show a black capped Union Hill Water Association potable water meter and a culvert under the driveway.
2. After 2012 Picture: "Gunshy Manor Wetland C sump pump Electrical Work.jpg" shows a Pedestal, underground service, 1 GFCI and the sump pump. Matches the November 2012 electrical permit description when a NEW service was installed for a pump.
3. Picture: "2016 Gunshy Manor 7240 196th Mailbox.jpg" the address of the Electrical Permit

Regarding Cascade Utilities 9/25/2012 Invoice 7965, "Double Wide Pasture Maintenance: Repair Drainage & Replace Existing Pump". It is difficult for the community to reconcile the receipt description that calls the work "replaced an existing pump in September" when there apparently was no power for any pump to use until two months later - when the November electrical permit to install a new electrical service for the sump pump was taken out with Wash Dept L&I.

- a. IMG-20120919-00053.jpg = Day 1, 9/19/2012, partial new trench alongside RBR with pipe, corner view looking south. See picture properties for timestamp 9/19/2012
- b. IMG-20120920-00056.jpg = Day 2, 9/20/2012, finished new trench alongside RBR corner view looking south. See picture properties for timestamp 9/20/2012
- c. IMG-20120920-00059.jpg = Day 2, 9/20/2012, finished new trenches closest to RBR corner view looking south. See picture properties for timestamp 9/20/2012
- d. IMG-20120920-00060.jpg = Day 2, 9/20/2012, finished new trenches closest to Doublewide Looking south. See picture properties for timestamp 9/20/2012

From: Rave-Perkins, Krista [<mailto:Rave-Perkins.Krista@epa.gov>]

Sent: Tuesday, August 2, 2016 8:39 AM

To: redbrickrd@outlook.com

Subject: 308 Request to Cascade Utilities

As requested during our meeting on the 27th, and agreed to by EPA attorney Endre Szalay, enclosed is the Information Request sent on the 29th.

Let me know if you have any questions. I will be out of the office on leave, but will be periodically checking my email. When I get back, we will be reaching out to other concerned groups.

Thank you,

Krista Rave-Perkins, EPA

206-553-6686

Message

From: Rave-Perkins, Krista [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=785BA3699A0F4D42989FBA22E659CE74-RAVE-PERKINS, KRISTA]
Sent: 10/5/2016 8:37:03 PM
To: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]; Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: RE: Comments on Gunshy Manor Final Restoration and Mitigation Work Plan

Hi Paul: I got your voice message and will pass it on to Endre. Yeah, we agreed to a 5 yr monitoring and also we agreed to 70% survivability. I think we are good on both of those because most of the vegetation is relatively fast growing and we aren't trying to do a huge planting/restoration at this site.

I appreciate your other comments and will talk with Endre about them.

Thanks for taking the time to provide comments!

krista

From: Anderson, Paul S. (ECY) [mailto:paan461@ECY.WA.GOV]
Sent: Wednesday, October 05, 2016 12:36 PM
To: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>
Subject: Comments on Gunshy Manor Final Restoration and Mitigation Work Plan

Krista and Endre:

I am finally back in the office after being gone much of September for training and vacation. I have just completed my review of the final restoration/mitigation plan provided by Gunshy (undated). Here are some observations (enclosed in []) where I think further clarification is needed or the plan is not consistent with agency standards (*Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1)* (Ecology Publication #06-06-011a; hereafter Mitigation Guidance)):

§ II.B.2.(b)(vi), p. 3. Spur Farm Road List of Best Management Practices: "...the new Spur Farm Road bed will be compacted..." [The purpose of the restoration is to remove the gravel and compacted fill that was brought in to surface the road. Compacting the new road bed is not consistent with restoration.]

§ II.B.3., p. 4. Vegetation Plan: "...improve soil drainage (if necessary) ..." [Since most of the restoration will take place in wetlands, "improving soil drainage" should not be a goal of the restoration plan. If soils are too wet for planted species to thrive, the planting palette should be revised to include more wet-tolerant species. Improving soil drainage within wetlands would require additional agency authorization and appears to be outside the conditions of the AOC/Agreed Order.]

§ II.B.3., p. 4. Vegetation Plan: "All planted material will require irrigation during the first year in the ground..." [To ensure that planted trees and shrubs thrive and that the restoration is in fact successful, irrigation during the dry season should be provided for at least the first two years following planting.]

§ II.C.1.(b), p. 5. Monitoring Plan: "Monitoring will occur for a minimum of five (5) years according to the schedule presented in Table 1 below. [For consistency with state and federal standards monitoring of planted trees and shrubs should occur for 10 years. The monitoring schedules listed in Table 1 and Table 2 need to be revised to show monitoring in years 0 (baseline), 1, 2, 5, 7 and 10; Year 0 is not considered to be part of the monitoring period as indicated in Table 1 and Table 2.]

"...Percent survival of planted material will be determined by direct inventory of planted material at a minimum of two feet on either side of the transect line..." [For the first two years, all plantings should be monitored for vigor and survival as the proposed planting areas are not that extensive nor difficult to inventory. All dead plants (trees and shrubs) found during monitoring Year 1 will need to be replanted; 100% survival for the first

year is a typical permitting requirement and typically, planting stock is guaranteed for the first year by the plant supplier. Same comment applies to any subsequent references to plant survival.]

§ II.C.1.(c)iii), p. 6. Monitoring Plan: [Need to provide cover performance standards for Year 5, Year 7, Year 10.]

§ II.C.1.(d), p. 6. Monitoring Plan: "...the silt will be removed from the channel.." [Unclear how removing silt from the channel meets the goals of the restoration plan. Also, if dredging is needed, more information would need to be provided on how and when the work will be performed, and the need for additional agency authorizations for in-water work.]

§ II.C.1.(d) ii), p. 7. Monitoring Plan: "...Poor soil conditions may be rectified through drainage improvements or soil amendments..." [Drainage improvements are not consistent with wetland restoration and any new drainage work within wetlands would require prior agency approval. Proper plant selection should help reduce the need for contingency measures.]

§ II.C.1.(d) iii), p. 7. Monitoring Plan: "...Substitution of plant species may be required if localized conditions are not favorable..." [Revisions to the approved restoration/mitigation plan, including substitution of plant species, would need to be reviewed and approved by the agencies before being implemented.]

Also, I would recommend that a performance standard for hydrology wetland hydrology be provided; we typically like to see a minimum of 30 consecutive days of wetland hydrology (ponding or saturation within 12" of the surface) during the growing season. We typically require a wetland delineation at Year 5 and Year 10 (as well as a wetland rating) to ensure that mitigation and restoration areas are on the right trajectory. It is much better to catch and correct problems early on in the monitoring period; the longer you wait, the more challenging and costly the remedy. I don't recall seeing any global standards for meeting wetland conditions or delineating.

A couple of other questions related to water quality protection:

1. Will the restoration work be disturbing more than an acre of ground? If so, Gunshy should be applying for a Construction General Stormwater Permit from Ecology.
2. The last ¶ on p. 2 of the plan indicates that Talasaea will determine when soils around the ditch meander area are stabilized. This is typically the prevue of a Certified Erosion and Sediment Control Lead (CESCL). It would be helpful if Talasaea could provide the names of staff who are accredited as a CESCL.

I hope this helps.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Sent: 10/5/2016 7:35:33 PM
To: Rave-Perkins, Krista [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=785ba3699a0f4d42989fba22e659ce74-Rave-Perkins, Krista]; Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: Comments on Gunshy Manor Final Restoration and Mitigation Work Plan
Flag: Follow up

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§ II.C.1.(c)iii), p. 6. Monitoring Plan: [Need to provide cover performance standards for Year 5, Year 7, Year 10.]

§ II.C.1.(d), p. 6. Monitoring Plan: "...the silt will be removed from the channel..." [Unclear how removing silt from the channel meets the goals of the restoration plan. Also, if dredging is needed, more information would need to be provided on how and when the work will be performed, and the need for additional agency authorizations for in-water work.]

§ II.C.1.(d) ii), p. 7. Monitoring Plan: "...Poor soil conditions may be rectified through drainage improvements or soil amendments..." [Drainage improvements are not consistent with wetland restoration and

any new drainage work within wetlands would require prior agency approval. Proper plant selection should help reduce the need for contingency measures.]

§ II.C.1.(d) iii), p. 7. Monitoring Plan: "...Substitution of plant species may be required if localized conditions are not favorable..." [Revisions to the approved restoration/mitigation plan, including substitution of plant species, would need to be reviewed and approved by the agencies before being implemented.]

Also, I would recommend that a performance standard for hydrology wetland hydrology be provided; we typically like to see a minimum of 30 consecutive days of wetland hydrology (ponding or saturation within 12" of the surface) during the growing season. We typically require a wetland delineation at Year 5 and Year 10 (as well as a wetland rating) to ensure that mitigation and restoration areas are on the right trajectory. It is much better to catch and correct problems early on in the monitoring period; the longer you wait, the more challenging and costly the remedy. I don't recall seeing any global standards for meeting wetland conditions or delineating.

A couple of other questions related to water quality protection:

1. Will the restoration work be disturbing more than an acre of ground? If so, Gunshy should be applying for a Construction General Stormwater Permit from Ecology.
2. The last ¶ on p. 2 of the plan indicates that Talasaea will determine when soils around the ditch meander area are stabilized. This is typically the prevue of a Certified Erosion and Sediment Control Lead (CESCL). It would be helpful if Talasaea could provide the names of staff who are accredited as a CESCL.

I hope this helps.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

Message

From: Lori Terry [TerrL@foster.com]
Sent: 1/14/2016 11:08:57 PM
To: Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]; Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
CC: Stephanie Weir [WeirS@foster.com]
Subject: RE: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408 and ER 408

Thanks, Endre. I should have mentioned that Stephanie and I are out on Monday as well.

From: Szalay, Endre [mailto:Szalay.Endre@epa.gov]
Sent: Thursday, January 14, 2016 3:06 PM
To: Lori Terry; Anderson, Paul S. (ECY)
Cc: Stephanie Weir
Subject: RE: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408 and ER 408

I'm off on Monday, January 14, 2016 for Martin Luther King Day. Other than that, I am in the office all week and can probably move things around to accommodate any meeting time that works for the group.

Endre Szalay
US EPA Region 10
Office of Regional Counsel
206-553-1073

From: Lori Terry [mailto:TerrL@foster.com]
Sent: Thursday, January 14, 2016 8:46 AM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>
Cc: Stephanie Weir <WeirS@foster.com>; Szalay, Endre <Szalay.Endre@epa.gov>
Subject: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408 and ER 408

Paul,

Thank you for your email. We are, of course, disappointed to learn that Ecology still has concerns, but are amenable to a conference call to discuss those concerns in more detail. We would, however, like to have the call quickly. Is there any time that you are available for a call next week? We can adjust our scheduled to accommodate yours and hope that Endre is able to do the same. I have copied him on this email so that he can weigh in. If you give us a couple of dates next week, we are hoping that we can schedule the call then as opposed to waiting until the end of the month. Ahead of our call, it would be very helpful if you could provide us with more information in support of Ecology's wetland delineation shown in the drawing you provided me on December 7, 2015. I look forward to hearing from you soon.

Lori

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com
1111 Third Ave., Suite 3400
Seattle, WA 98101

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From: Anderson, Paul S. (ECY) [<mailto:paan461@ECY.WA.GOV>]

Sent: Wednesday, January 13, 2016 5:01 PM

To: Stephanie Weir

Subject: RE: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408

Stephanie:

Thank you for taking time to send this response and also for your call yesterday; sorry I missed you.

Ecology still has some concerns and perhaps it would be best to have another call with you, Lori and Endre to discuss those concerns in more detail. Endre thought this would be a good approach to trying to find resolution to this issue. Would you be available for a call the week after next?

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Stephanie Weir [<mailto:WeirS@foster.com>]

Sent: Monday, January 04, 2016 3:45 PM

To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>

Cc: Lori Terry <TerrL@foster.com>

Subject: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408

Paul,

Please see attached. Thank you.

Stephanie

Stephanie G. Weir

Attorney

FOSTER PEPPER PLLC

1111 Third Avenue, Suite 3400

Seattle, WA 98101-3299

Phone: 206-447-6236

Fax: 206-749-2164

weirs@foster.com

www.foster.com



FOSTER PEPPER PLLC

Message

From: Lori Terry [TerrL@foster.com]
Sent: 1/14/2016 4:45:33 PM
To: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
CC: Stephanie Weir [WeirS@foster.com]; Szalay, Endre [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10b5b40221b744bb86d436cb1918c48f-Szalay, Endre M.]
Subject: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408 and ER 408

Paul,

Thank you for your email. We are, of course, disappointed to learn that Ecology still has concerns, but are amenable to a conference call to discuss those concerns in more detail. We would, however, like to have the call quickly. Is there any time that you are available for a call next week? We can adjust our scheduled to accommodate yours and hope that Endre is able to do the same. I have copied him on this email so that he can weigh in. If you give us a couple of dates next week, we are hoping that we can schedule the call then as opposed to waiting until the end of the month. Ahead of our call, it would be very helpful if you could provide us with more information in support of Ecology's wetland delineation shown in the drawing you provided me on December 7, 2015. I look forward to hearing from you soon.

Lori

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com

1111 Third Ave., Suite 3400

Seattle, WA 98101

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PLEASE DO NOT READ IT. Reply to sender (or postmaster@foster.com) and delete this mail.

From: Anderson, Paul S. (ECY) [<mailto:paan461@ECY.WA.GOV>]
Sent: Wednesday, January 13, 2016 5:01 PM
To: Stephanie Weir
Subject: RE: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408

Stephanie:

Thank you for taking time to send this response and also for your call yesterday; sorry I missed you.

Ecology still has some concerns and perhaps it would be best to have another call with you, Lori and Endre to discuss those concerns in more detail. Endre thought this would be a good approach to trying to find resolution to this issue. Would you be available for a call the week after next?

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Stephanie Weir [<mailto:WeirS@foster.com>]
Sent: Monday, January 04, 2016 3:45 PM

To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>

Cc: Lori Terry <TerrL@foster.com>

Subject: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408

Paul,

Please see attached. Thank you.

Stephanie

Stephanie G. Weir

Attorney

FOSTER PEPPER PLLC

1111 Third Avenue, Suite 3400

Seattle, WA 98101-3299

Phone: 206-447-6236

Fax: 206-749-2164

weirs@foster.com

www.foster.com



FOSTER PEPPER PLLC

Message

From: Szalay, Endre [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10B5B40221B744BB86D436CB1918C48F-SZALAY, ENDRE M.]
Sent: 1/26/2016 12:15:27 AM
To: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]; Lori Terry [TerrL@foster.com]
CC: Stephanie Weir [WeirS@foster.com]; Wolfman, Sonia (ATG) [SoniaW@ATG.WA.GOV]
Subject: RE: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Thanks for keeping me in the loop. This is encouraging.

Lori – whenever you're ready, let me know how your client would like to proceed with the EPA settlement documents in reference to this particular issue.

Endre Szalay
US EPA Region 10
Office of Regional Counsel
206-553-1073

From: Anderson, Paul S. (ECY) [mailto:paan461@ECY.WA.GOV]
Sent: Monday, January 25, 2016 4:00 PM
To: Lori Terry <TerrL@foster.com>
Cc: Szalay, Endre <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>
Subject: RE: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

Lori:

Thanks for getting back to me with your client's response. This is good news and we look forward to receiving the updated scope of work/restoration plan and getting this wrapped up.

Please let me know if you have any other questions.

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Lori Terry [mailto:TerrL@foster.com]
Sent: Monday, January 25, 2016 11:52 AM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>; Wolfman, Sonia (ATG) <SoniaW@ATG.WA.GOV>
Cc: 'Szalay, Endre' <Szalay.Endre@epa.gov>; Stephanie Weir <WeirS@foster.com>
Subject: Gunshy Manor Double-Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION; SUBJECT TO ER 408 & FRE 408

CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBJECT TO ER 408 AND FRE 408

Sonia and Paul,

Thank you for the call on Thursday, January 21st. After discussing your offer with our client, while we disagree with Ecology's position on the boundary of Wetland C, we are pleased that we can accept your offer to resolve this matter through enhancement plantings. The following contains an outline of our proposed settlement:

First, we will agree to widen the area of enhancement plantings along Evans Creek in the Summer Pasture from 15' to 30' wide, which adds an additional area of approximately 3,700 square feet of enhancement area plantings. Because the enhancement will occur in Wetland B, which is a Category I rated wetland that is adjacent to Evans Creek, the enhancement will provide significant ecologic benefits. Second, we will provide enhancement plantings in and around Wetland E, between the Loop Farm Road and Farm Ditch 2, adding an area of approximately 18,000 square feet of enhancement plantings. Our offer provides a total area of enhancement of approximately ½ acre. The enhancement plantings in each area described above will have the same planting densities and species as previously described in the Revised Vegetation Plan.

Because a portion of the proposed enhancement will occur in Wetland B, which is a wetland of higher quality than the double-wide pasture, adjacent to Evans Creek, and will increase the density of plantings in and near Wetland E, we expect significant water quality benefits from our proposal.

The settlement will be made without any admission of liability and will resolve Ecology's outstanding NOV. We are evaluating whether to include the settlement within the EPA settlement documents.

We look forward to hearing from you regarding our proposal. Thank you.

Lori & Stephanie

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com

1111 Third Ave., Suite 3400

Seattle, WA 98101

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Appointment

From: Szalay, Endre [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10B5B40221B744BB86D436CB1918C48F-SZALAY, ENDRE M.]
Sent: 1/21/2016 4:21:17 PM
To: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Subject: Accepted: Gunshy Manor Double-wide Pasture discussion
Location: By phone
Start: 1/21/2016 7:00:00 PM
End: 1/21/2016 8:00:00 PM
Show Time As: Busy

Appointment

From: Szalay, Endre [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10B5B40221B744BB86D436CB1918C48F-SZALAY, ENDRE M.]
Sent: 1/21/2016 12:30:02 AM
To: Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
Subject: Meeting Forward Notification: Gunshy Manor Double-wide Pasture discussion
Start: 1/21/2016 12:30:00 AM
End: 1/21/2016 1:00:00 AM
Show Time As: Busy

Your meeting was forwarded

Szalay, Endre has forwarded your meeting request to additional people.

Meeting

Gunshy Manor Double-wide Pasture discussion

Meeting Time

Thursday, January 21, 2016 11:00 AM - Thursday, January 21, 2016 12:00 PM

Recipients

Rave-Perkins, Krista

All times listed are in the following time zone: (UTC-08:00) Pacific Time (US & Canada)

Message

From: Szalay, Endre [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10B5B40221B744BB86D436CB1918C48F-SZALAY, ENDRE M.]
Sent: 1/15/2016 10:54:38 PM
To: Paul.s.anderson@ecy.wa.gov
Subject: FW: Nelson Meeting - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408
Attachments: AOC - Nelson - Gunshy (v1).docx; AOC Exhibit C - Nelson- Gunshy (NWP32 Request Letter).docx; CAFO - Nelson - Gunshy (v1).docx

Hi Paul – Nelson settlement documents attached per our discussion. Let me know if you or your counsel have questions.

Enjoy the long weekend.

Endre Szalay
US EPA Region 10
Office of Regional Counsel
206-553-1073

From: Szalay, Endre
Sent: Friday, October 23, 2015 2:28 PM
To: 'Lori Terry' <TerrL@foster.com>
Cc: Rave-Perkins, Krista <Rave-Perkins.Krista@epa.gov>
Subject: RE: Nelson Meeting - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408

Hi Lori:

Thanks for your email. I am happy to hear that we are in agreement on the proposed penalty. With that, I believe we have reached agreement in principle on all the issues. As promised, attached are the draft Compliance Order and Consent Agreement for your review. There are some details we need to through, but the terms should reflect our agreement in principle. I still need to get management approval on the terms, but I am comfortable recommending the terms as drafted, and confident they will be acceptable to EPA. I've also included a draft Nationwide Permit 32 request letter, which would be included in the Compliance Order as an exhibit. I still need to go over the letter with the Corps, but this should be the basic content.

Also, thanks for signing the Third Tolling Agreement. I'll send you the fully executed version as soon as it gets signed (likely on Monday 10/26).

Again, thanks for working with me towards reaching an equitable resolution of the enforcement matter. Let me know if you have any questions about the draft documents or next steps.

Have a nice weekend.

Endre M. Szalay
Assistant Regional Counsel
U.S. EPA, Region 10
1200 Sixth Ave., Suite 900, ORC-113
Seattle, WA 98101-3140
(206) 553-1073
szalay.endre@epa.gov



From: Lori Terry [<mailto:TerrL@foster.com>]

Sent: Monday, October 19, 2015 8:42 AM

To: Szalay, Endre

Subject: RE: Nelson Meeting - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408

Thank you, Endre and thank you and your clients for the meeting on last week. The \$10,000 penalty is acceptable based on the agreement in principle we reached during our meeting. Attached is the signed tolling agreement, which includes all of your redlined revisions. I look forward to receiving the draft Administrative Compliance Order this week. Thanks very much.

Lori

From: Szalay, Endre [<mailto:Szalay.Endre@epa.gov>]

Sent: Friday, October 16, 2015 2:05 PM

To: Lori Terry

Subject: RE: Nelson Meeting

Confidential Settlement Communication – Subject to FRE 408

Lori:

Thanks to you, Buff, and the rest of the group for coming to EPA's office to continue settlement discussions. I thought the meeting went very well and feel confident that we have indeed reached agreement in principle on the remaining issues. I will send you a draft Administrative Compliance Order next week. A couple of other follow up items, per our discussion.

First, attached is a draft Third Tolling Agreement, which would extend the tolling period until December 30, 2015. That should be more than enough time for us to conclude the enforcement action.

Second, EPA's bottom-line proposed penalty offer is \$10,000. If that number is acceptable to your client, then I will go ahead and send you a draft Consent Agreement and Final Order.

Thanks for all your hard work in getting us to this point.

Best,

Endre Szalay
US EPA Region 10
Office of Regional Counsel
206-553-1073

From: Lori Terry [<mailto:TerrL@foster.com>]

Sent: Monday, September 28, 2015 2:12 PM

To: Szalay, Endre
Subject: RE: Nelson Meeting

Yes. We are confirmed for Oct. 15th from 9-11, your office. Thanks, Endre.

Lori

From: Szalay, Endre [mailto:Szalay.Endre@epa.gov]
Sent: Monday, September 28, 2015 10:41 AM
To: Lori Terry
Subject: Nelson Meeting

Hi Lori:

I'm following up on a VM I just left. I think we all set to meet at EPA's office on Oct 15 from 9 to 11am. Let me know if that still works on your end. Thanks,

Endre M. Szalay
Assistant Regional Counsel
U.S. EPA, Region 10
1200 Sixth Ave., Suite 900, ORC-113
Seattle, WA 98101-3140
(206) 553-1073
szalay.endre@epa.gov



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101**

In the Matter of:

**William C. Nelson, Jr. and
The Estate of Barbara Nelson,
Redmond, Washington**

Respondents.

DOCKET NO. CWA-10-2015-XXXX

**ADMINISTRATIVE ORDER
ON CONSENT**

The United States Environmental Protection Agency (“EPA”), with the consent of William C. Nelson, Jr. and the Estate of Barbara Nelson (“Respondents”), issues this Administrative Order on Consent (“Consent Order”) pursuant to the authority vested in the EPA Administrator by Sections 308 and 309(a) of the Clean Water Act (“Act” or “CWA”), 33 U.S.C. §§ 1318 and 1319(a). This authority has been delegated to the Regional Administrator, Region 10, and has been duly redelegated to the undersigned Director of the Office of Ecosystems, Tribal and Public Affairs.

The purpose of this Consent Order is to remedy the environmental and habitat losses resulting from Respondents’ discharge of dredged or fill material into waters of the United States more fully described in Section II below. Respondents agree to the effect of this Consent Order

as described in Sections I and IV, and agrees to carry out the terms and conditions described in Section III.

I. **APPLICABILITY**

1.1 Respondents waive any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law or any terms and conditions set forth in this Consent Order, including any right of judicial review of this Consent Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

1.2 This Consent Order shall be binding on Respondents and their agents, employees, attorneys, successors, and assigns, and on all persons, contractors, and consultants acting in concert with Respondents.

1.3 Respondents must provide a copy of this Consent Order to all contractors and/or consultants retained to perform any of the work described in this Consent Order at least 48 hours prior to the initiation of such work.

1.4 If Respondents transfer any interest in the real property prior to completion of the work described in this Consent Order, Respondents must provide a copy of this Consent Order to any successor in ownership, control, operation, or any other interest in all or any portion of the real property at issue at least 30 days prior to the transfer and must simultaneously notify EPA in writing that such notice has been given. No transfer or contract shall in any way affect Respondent's obligation to comply fully with all the terms and conditions of this Consent Order.

II. **FINDINGS AND CONCLUSIONS**

2.1 Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States by any person, except as authorized by a permit issued pursuant to Section 402 or 404 of the Act, 33 U.S.C. § 1342 or 1344. Each discharge of pollutants from a point source that is not authorized by such a permit constitutes a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

2.2 Respondents are “persons” within the meaning of Sections 301(a) and 502(5) of the Act, 33 U.S.C. §§ 1311(a) and 1362(5).

2.3 Respondents own, possesses, and/or control approximately 124 acres of real property in Redmond, Washington. This property is located near 7240 196th Avenue, Redmond, Washington, 98053, Latitude 47.669589°, Longitude -122.076217°. Respondents’ Redmond property is hereinafter referred to as the “Site.”

2.4 At the time of the unauthorized activities described below, the Site contained at least 14 acres of wetlands within the meaning of 33 C.F.R. § 328.3(b) and 40 C.F.R. § 232.2. These wetlands meet the criteria for jurisdictional wetlands in the 1987 “Federal Manual for Identifying and Delineating Jurisdictional Wetlands.”

2.5 The Site’s wetland areas are adjacent and hydrologically connected to unnamed ditches and streams that eventually flow into Evans Creek, which flows into Bear Creek, which flows into the Sammamish River. The Sammamish River is a Rivers and Harbors Act Section 10, 33 U.S.C. § 403, water and is a “water of the United States” as defined in 33 C.F.R. § 328.3(a)(1), and 40 C.F.R. § 232.2, and is therefore is a “navigable water” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7). Consequently, the unnamed ditches and streams and adjacent wetlands on the Site are “waters of the United States” within the meaning of 33 C.F.R. §§ 328.3(5)&(7) and 40 C.F.R. § 232.2, and therefore “navigable waters” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7).

2.6 From January 2010 to the effective date of this agreement, at times more fully known to Respondents, Respondents and/or persons acting on their behalf, used heavy earth-moving equipment to place dredged and/or fill material into wetlands and other waters of the United States at the Site. This activity occurred when Respondents spread fill material in areas known as the Spur Road, Summer Pasture and Loop Farm Road, depicted in the Site Aerial Photograph, attached as Exhibit A.

Commented [SE1]: My recommendation is to include an exhibit that identifies generally the areas of alleged discharges. I am open to dropping the reference to the exhibit, but want to make sure the Parties are comfortable with the scope of the agreement.

2.7 The construction equipment referenced in Paragraph 2.6 is a “point source” within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

2.8 The dredged and/or fill materials that Respondent and/or persons acting on his behalf caused to be discharged, as referenced in Paragraph 2.6, included dirt and gravel, among other things, each of which constitutes “dredged material” and/or “fill material” within the meaning of 40 C.F.R. § 232.2, and each of which constitutes a “pollutant” within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

2.9 By causing such dredged and/or fill materials to enter waters of the United States, Respondent engaged in the “discharge of pollutants” from a point source within the meaning of Sections 301(a) and 502(12) of the Act, 33 U.S.C. §§ 1311(a) and 1362(12).

2.10 Respondent’s discharges of dredged and/or fill materials described in Paragraph 2.6 above were not authorized by any permit issued pursuant to Section 404 of the Act, 33 U.S.C. § 1344. Respondent is therefore in violation of section 301(a) of the Act, 33 U.S.C. § 1311(a).

2.11 Each day the dredged and/or fill material remains in place without the required permit constitutes an additional day of violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

2.12 Taking into account the seriousness of these violations and any good faith efforts to comply with applicable requirements, the parties acknowledge and agree the schedule for compliance contained in Section III of this Consent Order is reasonable and appropriate.

III. **COMPLIANCE MEASURES**

Based upon the foregoing FINDINGS AND CONCLUSIONS and pursuant to Sections 308 and 309(a) of the Act, 33 U.S.C. §§ 1318 and 1319(a), it is hereby AGREED and ORDERED as follows:

3.1 Prohibition of Discharge: Respondent shall not discharge any additional pollutants into any waters of the United States at the Site except in compliance with this Consent Order or a permit issued pursuant to the Clean Water Act.

3.2 Submission of Final Restoration and Mitigation Work Plan: No later than **60 days after the effective date of this Consent Order**, Respondent must submit to the EPA contact identified in Paragraph 3.11 of this Consent Order, for review and approval, a Final Restoration and Mitigation Work Plan consistent with the Draft Work Plan, attached as Exhibit B. At a minimum, this Final Restoration and Mitigation Work Plan must include:

Commented [SE2]: My recommendation is to include by reference the revised Work Plan we reviewed during the last settlement conference. We may also want to include the Talasaea report re the vegetation plan, to the extent that those details are not depicted in the Work Plan.

3.2.1. A scaled site survey, or other mutually agreeable sketch(s) and/or drawing(s), depicting the Site's existing man-made and significant natural features boundaries ("Site Survey");

3.2.2. A description of the exact areas where remedial activities will occur, using the Site Survey described in Paragraph 3.2.1 above as a base, including the dimensions (length, width and depth) of the ditches to be backfilled and/or meandered and the dimensions (length, width, and area) of the gravel road to be removed and the Site restored. Indicate the location of proposed plantings/seeding;

3.2.3. A description of how the work is to be completed, including, but not limited to: (1) a task schedule, including anticipated start dates for when the fill removal and restoration activities would commence; (2) list of heavy earthmoving equipment to be used; (3) the name(s) and contact information for the person(s) and/or contractor(s) that will complete the work under this Compliance Order; (4) the process for backfilling and/or meandering the ditches and revegetating the area; (5) the process for removing gravel fill and revegetating the area; and (6) the upland disposal location and an estimate of the quantity (cubic yards) of gravel material to be removed;

3.2.4. A list of the best management practices ("BMPs") (including silt fences, silt curtains, work practices, etc.) Respondents will employ during the restoration and

mitigation activities to minimize to the maximum extent practicable: (1) the discharge of sediment and other pollutants to waters of the United States, including wetlands; and (2) soil compaction and damage to existing vegetation.

3.2.5. A Vegetation Plan identifying the specific plant species, planting densities, planting locations, and vegetation techniques that Respondents will employ to revegetate the wetlands;

3.2.6. A Monitoring Plan describing the hydrologic, vegetation, and photographic monitoring and documentation Respondents will employ to satisfy the monitoring goals. Performance standards for the hydrological and vegetation recovery of the wetlands should be established.

3.2.7. A Contingency Plan identifying the steps Respondents will take in the event the performance standards for hydrology and vegetation are not achieved.

3.3 Approval by EPA: Upon receipt of the Final Restoration and Mitigation Task Plan, EPA will, within a reasonable time, review and approve the plan or submit a request for additional information. Respondent shall respond to an initial request for additional information within 15 days. EPA will review the response to the request for additional information and approve the plan or submit a final request for additional information within a reasonable time.

3.4 Notification to EPA: At least seven days prior to commencing activities on the Site under the EPA-approved Final Restoration and Mitigation Plan, Respondent must notify the EPA representative identified in Paragraph 3.11.

3.5 Implementation: **No later than December 31, 2016**, Respondent must complete the on-site restoration work as required by the EPA-approved Final Restoration and Mitigation Plan.

3.6 Completion Report: Within fourteen days of completing the initial on-site mitigation activities described in the EPA-approved Final Restoration and Mitigation Plan, Respondents must notify, in writing, the EPA representative identified in Paragraph 3.11. The

notification must include photographs of Site conditions before and after compliance with this Consent Order. EPA will approve the Completion Report within a reasonable time.

3.7 Site Inspection: Upon receipt of the notification referenced in Paragraph 3.4, EPA may schedule a Site inspection by EPA or its designated representative and may invite the U.S. Army Corps of Engineers to participate in the inspection so long as said Site visit is completed within seven (7) business days of the notification so as to not delay or interfere with the implementation of the EPA-approved Final Restoration and Mitigation Plan.

3.8 Annual Report: On or before the first anniversary of EPA's approval of the Completion Report described in Paragraph 3.6 above, Respondents must submit to the EPA contact identified in Paragraph 3.11 of this Consent Order the first of five annual reports that include: (1) documentation of the hydrologic changes in the wetlands; (2) photographic documentation of the fill removal at the Spur Road, meandering of the South Farm Ditch, and backfilling/regrading of the unnamed lateral farm ditch; and (3) documentation of the seeding/revegetation efforts described in the EPA-approved Final Restoration and Mitigation Plan. Respondent must submit similar such annual reports on the same date in each of the following four years.

3.9 Site Access: Respondents must provide and/or obtain access to the Site to implement this Consent Order and must provide access to all records and documentation related to the conditions at the Site and the restoration and mitigation activities conducted pursuant to this Consent Order. Such access must be provided to EPA employees and representatives. These individuals must be permitted to move freely at the Site in order to conduct actions which EPA determines to be necessary, so long as they do not unreasonably interfere with any of Respondents' activities at the Site.

3.10 Force Majeure: In the event that there is an actual or anticipated delay attributable to force majeure, the time for performance of the obligation shall be extended by written agreement of the parties. An extension of the time for performing an obligation directly

affected by the force majeure event shall not, of itself, extend the time for performing a subsequent obligation.

3.10.1. For the purposes of this Consent Order, “force majeure” shall mean any event entirely beyond the control of Respondents or any entity controlled by Respondents, including Respondents’ contractors, consultants, and subcontractors, that delays or prevents performance of any obligation under this Consent Order notwithstanding Respondents’ best efforts to avoid the delay. The best efforts requirement includes using best efforts to anticipate any such event and minimize the delay caused by any such event to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any work to be performed under this Consent Order and financial difficulties encountered by Respondents.

3.10.2. If any event may occur or has occurred that may delay the performance of any obligation under this Consent Order, whether or not caused by a force majeure, Respondents must notify by telephone the EPA contact identified in Paragraph 3.10 of this Consent Order, within two business days of when Respondents became aware that the event might cause a delay. Within seven days thereafter, Respondents must provide in writing the reasons for the delay, the anticipated duration of the delay, the measures taken or to be taken to prevent or minimize the delay, a timetable by which those measures will be implemented, and whether, in Respondents’ opinion, such event may cause or contribute to an endangerment to public health, welfare, or the environment. Respondents must exercise best efforts to avoid or minimize any delay and any effects of a delay. Failure to comply with the notice requirements of this paragraph shall preclude Respondents from asserting any claim of force majeure.

3.10.3. Respondents shall have the burden of demonstrating, by a preponderance of the evidence, that the actual or anticipated delay has been or will be caused by a force

majeure event, that the duration of the delay was or will be warranted under the circumstances, that Respondents did exercise or is using best efforts to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of this section.

3.11 Project Coordinators: The parties have designated his respective Project Coordinators as follows:

(a) For EPA:

Krista Rave-Perkins
Aquatic Resources Unit
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Mail Stop – ETPA-202
Seattle, Washington 98101
Phone: (206) 553-6686

(b) For Respondents:

[SPECIFY CONTACT]

The Project Coordinators shall be responsible for overseeing the implementation of this Consent Order and receiving communications, which include, but are not limited to, all documents, reports, comments, approvals, and other correspondence submitted or exchanged under this Consent Order. EPA and Respondents may change their respective Project Coordinator by giving the other party advance written notice.

3.12 Failure to timely and appropriately implement to EPA's satisfaction any element of the EPA-approved Restoration and Mitigation Plan shall be deemed a violation of this Consent Order and of the Clean Water Act.

3.13 Nationwide Permit 32 for Completed Enforcement Actions, 77 Fed. Reg. 10184, 10184 (Feb. 21, 2012), authorizes "[a]ny structure, work, or discharge of dredged or fill material remaining in place or undertaken for mitigation, restoration, or environmental benefit in compliance with" the terms of a CWA 309(a) Consent Order. Upon the effective date of this Consent Order, as described in paragraph 3.14 below, Respondents shall provide to the District

Engineer of the U.S. Army Corps of Engineers, Seattle District an application in the form of the letter attached at Exhibit C, which requests the District Engineer to verify that Nationwide Permit 32 authorizes Respondents to implement the Final Restoration and Mitigation Plan in accordance with the Scope of Work Memo and Work Plan.

3.14 This Consent Order shall become effective on the date it is signed by EPA.

IV. POTENTIAL SANCTIONS

4.1 Failure to comply with the terms of this CWA Section 309(a) Consent Order may result in your liability for statutory civil penalties under CWA Section 309(d), 33 U.S.C. § 1319(d), as modified 40 C.F.R. Part 19. Should EPA commence an action seeking penalties for violations of this Consent Order, a United States district court may impose civil penalties if, after notice and opportunity for a hearing, the court determines that you have violated the CWA and failed to comply with the terms of the Consent Order. The court has the authority to impose separate civil penalties for violation of the CWA as well as for violation of this Consent Order.

4.2 This Consent Order is not a permit, and nothing in this Consent Order shall be construed to relieve Respondents of any applicable requirements of federal, state, or local law.

The undersigned representative of Respondents certifies that he is fully authorized to enter into the terms and conditions of this Order and to bind Respondents to this document.

STIPULATED and AGREED this ____ day of _____, 2014:

William C Nelson, Jr.

It is so ORDERED and AGREED this ____ day of _____, 2014:

R. David Allnutt, Director
Office of Ecosystems, Tribal and Public Affairs

EXHIBIT A: SITE AERIAL PHOTOGRAPH

EXHIBIT B: DRAFT WORK PLAN

EXHIBIT C: NWP 32 REQUEST LETTER

[DATE]

Ms. Michelle Walker
Chief, Regulatory Branch
U.S. Army Corps of Engineers – Seattle District
Post Office Box 3755
Seattle, Washington 98124-3755

Re: Request for Nationwide Permit 32 Verification; Docket No. CWA-2016-XXXX

William C. Nelson, Jr. and the Estate of Barbara Nelson
7240 196th Avenue, Redmond, Washington, 98053

Dear Ms. Walker:

I am writing to request the Corps to verify that the restoration and mitigation project at the above-referenced Property is authorized by Nationwide Permit 32 (NWP 32). This request is made to comply with the provisions of the Administrative Compliance Order on Consent entered into between William C. Nelson, Jr. and the Estate of Barbara Nelson and the U.S. Environmental Protection Agency dated _____ 2015, CWA-10-2016-XXXX, and enclosed with this letter. I have also enclosed a Joint Aquatic Resources Project Application form and supporting documents, such as drawings.

I understand that this verification would remain valid until the current NWP 32 expires (currently, March 18, 2017) provided I comply with all applicable terms and conditions of the NWP 32 verification, including any special conditions, and the terms of the consent Order.

Please send the NWP 32 verification letter to: [Mailing Address]

Sincerely,

[Name]

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101**

In the Matter of:

**William C. Nelson, Jr. and
The Estate of Barbara Nelson,
Redmond, Washington**

Respondents.

DOCKET NO. CWA-10-2016-XXXX

**CONSENT AGREEMENT
AND FINAL ORDER**

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 309(g)(2)(B) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(B).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 309(g)(1) and (2)(B) of the CWA, 33 U.S.C. § 1319(g)(1) and (2)(B), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and William C. Nelson, Jr. and The Estate of Barbara Nelson (“Respondents”) agree to issuance of, the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this CAFO

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**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a Class II penalty is proposed to be assessed pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Office of Ecosystems, Tribal and Public Affairs, EPA Region 10 (“Complainant”).

2.3. Part III of this CAFO contains a concise statement of the factual and legal basis for the alleged violations of the CWA together with the specific provisions of the CWA and the implementing regulations that Respondents are alleged to have violated.

III. ALLEGATIONS

3.1. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States by any person, except as authorized by a permit issued pursuant to Section 402 or 404 of the Act, 33 U.S.C. § 1342 or 1344. Each discharge of pollutants from a point source that is not authorized by such a permit constitutes a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

3.2. Respondents are “persons” within the meaning of Sections 301(a) and 502(5) of the Act, 33 U.S.C. §§ 1311(a) and 1362(5).

3.3. Respondents own, possesses, and/or control approximately 124 acres of real property in Redmond, Washington. This property is located near 7240 196th Avenue, Redmond, Washington, 98053, Latitude 47.669589°, Longitude -122.076217°. Respondents’ Redmond property is hereinafter referred to as the “Site.”

3.4. At the time of the unauthorized activities described below, the Site contained at least 14 acres of wetlands within the meaning of 33 C.F.R. § 328.3(b) and 40 C.F.R. § 232.2.

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These wetlands meet the criteria for jurisdictional wetlands in the 1987 “Federal Manual for Identifying and Delineating Jurisdictional Wetlands.”

3.5. The Site’s wetland areas are adjacent and hydrologically connected to unnamed ditches and streams that eventually flow into Evans Creek, which flows into Bear Creek, which flows into the Sammamish River. The Sammamish River is a Rivers and Harbors Act Section 10, 33 U.S.C. § 403, water and is a “water of the United States” as defined in 33 C.F.R. § 328.3(a)(1), and 40 C.F.R. § 232.2, and is therefore is a “navigable water” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7). Consequently, the unnamed ditches and streams and adjacent wetlands on the Site are “waters of the United States” within the meaning of 33 C.F.R. §§ 328.3(5)&(7) and 40 C.F.R. § 232.2, and therefore “navigable waters” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7).

3.6. From January 2010 to the effective date of this agreement, at times more fully known to Respondents, Respondents and/or persons acting on their behalf, used heavy earth-moving equipment to place dredged and/or fill material into wetlands and other waters of the United States at the Site. This activity occurred when Respondents spread fill material in areas known as the Spur Road, Summer Pasture and Loop Farm Road, depicted in the Site Aerial Photograph, attached as Exhibit A.

Commented [A1]: My recommendation is to include an exhibit that identifies generally the areas of alleged discharges. I am open to dropping the reference to the exhibit, but want to make sure the Parties are comfortable with the scope of the agreement.

3.7. The construction equipment referenced in Paragraph 3.6 is a “point source” within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

3.8. The dredged and/or fill materials that Respondents and/or persons acting on their behalf caused to be discharged, as referenced in Paragraph 3.6, included dirt and gravel, among other things, each of which constitutes “dredged material” and/or “fill material” within the meaning of 40 C.F.R. § 232.2, and each of which constitutes a “pollutant” within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

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3.9. By causing such dredged and/or fill materials to enter waters of the United States, Respondents engaged in the “discharge of pollutants” from a point source within the meaning of Sections 301(a) and 502(12) of the Act, 33 U.S.C. §§ 1311(a) and 1362(12).

3.10. Respondents’ discharges of dredged and/or fill materials described in Paragraph 3.6 above were not authorized by any permit issued pursuant to Section 404 of the Act, 33 U.S.C. § 1344. Respondents are therefore in violation of section 301(a) of the Act, 33 U.S.C. § 1311(a).

3.11. Each day the dredged and/or fill material remains in place without the required permit constitutes an additional day of violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

3.12. In accordance with Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19, Respondents are liable for the administrative assessment of civil penalties for violations at the Site in an amount not to exceed \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

IV. CONSENT AGREEMENT

4.1. Respondents admits the jurisdictional allegations of this CAFO.

4.2. Respondents neither admit nor deny the specific factual allegations contained in this CAFO.

4.3. As required by Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the alleged violations as well as Respondents’ degree of culpability, economic benefit of noncompliance, ability to pay, and other relevant factors. After considering all of these factors, EPA has determined and Respondents agree that an appropriate penalty to settle this action is \$10,000.

4.4. Respondents agree to pay the total civil penalty set forth in Paragraph 4.3 within

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Seattle, Washington 98101
(206) 553-1073**

30 days of the effective date of the Final Order contained in Part V of this CAFO.

4.5. Payment under this CAFO must be made by a cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondents must note on the check the title and docket number of this action.

4.6. Respondents must serve photocopies of the check described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Krista Rave-Perkins
U.S. Environmental Protection Agency,
Region 10, Mail Stop – ETPA-202
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

4.7. If Respondents fail to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondents to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.7.1. Interest. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C.

§ 1319(g)(9), any unpaid portion of the assessed penalty shall bear interest at a rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order set forth in Part V, provided however, that no interest

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shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

4.7.2. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondents fail to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondents shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondents' penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.8. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.7, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.9. Except as described in Subparagraph 4.7.2, above, each party shall bear its own costs in bringing or defending this action.

4.10. Respondents expressly waives any right to contest the allegations and waives any right to appeal the Final Order set forth in Part V.

4.11. The provisions of this CAFO shall bind Respondents and its agents, servants, employees, successors, and assigns.

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(206) 553-1073**

4.12. The above provisions are STIPULATED AND AGREED upon by Respondents and EPA Region 10.

DATED:

FOR RESPONDENTS:

WILLIAM C. NELSON, JR.

DATED:

FOR COMPLAINANT:

R. DAVID ALLNUTT, Director
Office of Ecosystems, Tribal and Public Affairs
EPA Region 10

V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondents are ordered to comply with the terms of settlement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondents' obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

5.3. In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the Washington Department of Ecology has been given the opportunity to

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consult with EPA regarding the assessment of the administrative civil penalty against Respondent.

5.4. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA has issued public notice of and provided reasonable opportunity to comment on its intent to assess an administrative penalty against Respondents. More than 40 days have elapsed since issuance of this public notice and EPA has received no petition to set aside the Consent Agreement contained herein.

5.5. This Final Order shall become effective upon filing.

SO ORDERED this ____ day of _____, 201__.

M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

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**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

Message

From: Szalay, Endre [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10B5B40221B744BB86D436CB1918C48F-SZALAY, ENDRE M.]
Sent: 1/14/2016 11:06:10 PM
To: Lori Terry [TerrL@foster.com]; Anderson, Paul S. (ECY) [paan461@ECY.WA.GOV]
CC: Stephanie Weir [WeirS@foster.com]
Subject: RE: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408 and ER 408

I'm off on Monday, January 14, 2016 for Martin Luther King Day. Other than that, I am in the office all week and can probably move things around to accommodate any meeting time that works for the group.

Endre Szalay
US EPA Region 10
Office of Regional Counsel
206-553-1073

From: Lori Terry [mailto:TerrL@foster.com]
Sent: Thursday, January 14, 2016 8:46 AM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>
Cc: Stephanie Weir <WeirS@foster.com>; Szalay, Endre <Szalay.Endre@epa.gov>
Subject: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408 and ER 408

Paul,

Thank you for your email. We are, of course, disappointed to learn that Ecology still has concerns, but are amenable to a conference call to discuss those concerns in more detail. We would, however, like to have the call quickly. Is there any time that you are available for a call next week? We can adjust our scheduled to accommodate yours and hope that Endre is able to do the same. I have copied him on this email so that he can weigh in. If you give us a couple of dates next week, we are hoping that we can schedule the call then as opposed to waiting until the end of the month. Ahead of our call, it would be very helpful if you could provide us with more information in support of Ecology's wetland delineation shown in the drawing you provided me on December 7, 2015. I look forward to hearing from you soon.

Lori

Lori Terry Gregory | FOSTER PEPPER PLLC | 206-447-8902 | terrl@foster.com
1111 Third Ave., Suite 3400
Seattle, WA 98101

Confidential Attorney-Client Communication. IF YOU RECEIVED THIS EMAIL BY MISTAKE,
PLEASE DO NOT READ IT. Reply to sender (or postmaster@foster.com) and delete this mail.

From: Anderson, Paul S. (ECY) [mailto:paan461@ECY.WA.GOV]
Sent: Wednesday, January 13, 2016 5:01 PM
To: Stephanie Weir
Subject: RE: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408

Stephanie:

Thank you for taking time to send this response and also for your call yesterday; sorry I missed you.

Ecology still has some concerns and perhaps it would be best to have another call with you, Lori and Endre to discuss those concerns in more detail. Endre thought this would be a good approach to trying to find resolution to this issue. Would you be available for a call the week after next?

Paul

Paul S. Anderson, PWS
Wetlands/401 Unit Supervisor
Washington State Department of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008
Phone: (425) 649-7148
Cell: (425) 765-4691
Fax: (425) 649-7098
Email: Paul.S.Anderson@ecy.wa.gov

From: Stephanie Weir [<mailto:WeirS@foster.com>]
Sent: Monday, January 04, 2016 3:45 PM
To: Anderson, Paul S. (ECY) <paan461@ECY.WA.GOV>
Cc: Lori Terry <TerrL@foster.com>
Subject: Gunshy Manor Double Wide Pasture - CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408

Paul,

Please see attached. Thank you.

Stephanie

Stephanie G. Weir
Attorney
FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3400
Seattle, WA 98101-3299
Phone: 206-447-6236
Fax: 206-749-2164
weirs@foster.com
www.foster.com



FOSTER PEPPER PLLC

Message

From: Szalay, Endre [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10B5B40221B744BB86D436CB1918C48F-SZALAY, ENDRE M.]
Sent: 5/6/2016 12:08:31 AM
To: Paul.s.anderson@ecy.wa.gov
CC: Rave-Perkins, Krista [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=785ba3699a0f4d42989fba22e659ce74-Rave-Perkins, Krista]
Subject: Gunshy Manor Settlement Documents
Attachments: Estate of Nelson - Gunshy Manor, AOC (draft final - not signed).docx; Estate of Nelson - Gunshy Manor, CAFO (draft final - not signed).docx; Exhibit A - Estate of Nelson AOC & CAFO (Site Aerial).pdf; Exhibit B - Estate of Nelson AOC (Draft Work Plan).pdf; Exhibit C - Estate of Nelson AOC (Draft VegPlan).pdf; Exhibit D - Estate of Nelson AOC (NWP32 Request Letter).docx

Paul:

Attached are draft final versions of our settlement documents, including exhibits. The documents are currently routing for EPA management concurrence, and we should be sending them to Lori sometime next week. Please keep this close hold, as it's still undergoing management review, but I felt that you should have these in hand prior to finalization because of our collaboration and parallel enforcement. Please let me know if you have any questions. Also, please let me know if you need any assistance coordinating with Lori re the state's enforcement. Happy to assist.

Thanks and talk soon,

Endre M. Szalay
Assistant Regional Counsel
U.S. EPA, Region 10
1200 Sixth Ave., Suite 900, ORC-113
Seattle, WA 98101-3140
(206) 553-1073
szalay.endre@epa.gov



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101**

In the Matter of:

**William C. Nelson, Jr. and
The Estate of Barbara Nelson,
Redmond, Washington**

Respondents.

DOCKET NO. CWA-10-2016-0087

**ADMINISTRATIVE ORDER
ON CONSENT**

I. STATUTORY AUTHORITY

1.1. The United States Environmental Protection Agency (“EPA”) issues this Administrative Order on Consent (“Consent Order”) pursuant to the authority vested in the EPA Administrator by Sections 308 and 309(a) of the Clean Water Act (“Act” or “CWA”), 33 U.S.C. §§ 1318 and 1319(a). This authority has been delegated to the Regional Administrator, Region 10, and has been duly redelegated to the undersigned Director of the Office of Ecosystems, Tribal and Public Affairs.

II. STIPULATIONS

2.1. The purpose of this Consent Order is to remedy William C. Nelson, Jr.’s and the Estate of Barbara J. Nelson’s (Respondents’) alleged discharge of dredged or fill material into

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Page 1 of 12
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

waters of the United States more fully described in Section IV below. Respondents neither admit nor deny the EPA's Finding and Conclusions in Section IV.

2.2. The EPA and Respondents recognize that this order has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Consent Order do not constitute an admission of fault or liability. EPA and Respondents have voluntarily entered into this Consent Order in lieu of alternatives available to the EPA and Respondents, including litigation. Respondents retain the right to controvert in any subsequent proceedings the validity of EPA's Findings and Conclusions, other than proceedings to implement or enforce this Consent Order.

2.3. Respondents agree to comply with and be bound by the terms of this Consent Order and further agree that they will not contest the validity of this Consent Order or its terms as specified herein.

III. APPLICABILITY

3.1. Respondents waive any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law or any terms and conditions set forth in this Consent Order, including any right of judicial review of this Consent Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

3.2. This Consent Order shall be binding on Respondents and their agents, employees, attorneys, successors, and assigns. This Consent Order shall be binding on anyone operating under the direction of the Order.

3.3. Respondents must provide a copy of this Consent Order to all contractors and/or consultants retained to perform any of the work described in this Consent Order at least 48 hours prior to the initiation of such work.

3.4. If Respondents transfer any interest in the real property prior to completion of the work described in this Consent Order, Respondents must provide a copy of this Consent Order to any successor in ownership, control, operation, or any other interest in all or any portion of the real property at issue at least 30 days prior to the transfer and must simultaneously notify EPA in writing that such notice has been given. No transfer or contract shall in any way affect Respondent's obligation to comply fully with all the terms and conditions of this Consent Order.

IV. EPA'S FINDINGS AND CONCLUSIONS

4.1 Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States by any person, except as authorized by a permit issued pursuant to Section 402 or 404 of the Act, 33 U.S.C. § 1342 or 1344. Each discharge of pollutants from a point source that is not authorized by such a permit constitutes a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

4.2 Respondents are "persons" within the meaning of Sections 301(a) and 502(5) of the Act, 33 U.S.C. §§ 1311(a) and 1362(5).

4.3 Respondents own, possesses, and/or control approximately 124 acres of real property in Redmond, Washington, known as Gunshy Manor Farm (hereinafter "the Farm"). The Farm is located near 7240 196th Avenue, Redmond, Washington, 98053, Latitude 47.669589°, Longitude -122.076217°, which is generally depicted in the aerial Photograph, attached as Exhibit "A." On February 18, 2015, Agency staff from the EPA, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, and the Washington State Department of Ecology conducted a site visit and collected soil samples at the Farm.

4.4 At the time of the unauthorized activities described below, the Farm contained wetlands within the meaning of 33 C.F.R. § 328.3(b) and 40 C.F.R. § 232.2. The wetlands impacted by the alleged unauthorized discharges described in paragraph 4.6 below meet the criteria for jurisdictional wetlands in the 1987 "Federal Manual for Identifying and Delineating Jurisdictional Wetlands."

4.5 The wetland areas impacted by the alleged unauthorized discharges described in paragraph 4.6 below are adjacent and hydrologically connected to ditches and streams that eventually flow into Evans Creek, which flows into Bear Creek, which flows into the Sammamish River. The Sammamish River is a Rivers and Harbors Act Section 10, 33 U.S.C. § 403, water and is a “water of the United States” as defined in 33 C.F.R. § 328.3(a)(1), and 40 C.F.R. § 232.2, and is therefore is a “navigable water” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7). Consequently, the ditches and streams and the adjacent wetlands impacted by the alleged unauthorized discharges described in paragraph 4.6 below are “waters of the United States” within the meaning of 33 C.F.R. §§ 328.3(5)&(7) and 40 C.F.R. § 232.2, and therefore “navigable waters” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7).

4.6 On or before January 2010 to the effective date of this Consent Order, at times more fully known to Respondents, Respondents and/or persons acting on their behalf, used heavy earth-moving equipment to place dredged and/or fill material into wetlands and other waters of the United States at the Farm. This activity occurred when Respondents spread fill material in areas known as the Spur Farm Road and the Loop Farm Road and in a portion of the South Farm Ditch located in the Summer Pasture, hereinafter referred to as “the Site,” which areas are generally depicted in the Site Aerial Photograph, attached as Exhibit “A.”

4.7 The construction equipment referenced in Paragraph 4.6 is a “point source” within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

4.8 The dredged and/or fill materials that Respondent and/or persons acting on his behalf caused to be discharged, as referenced in Paragraph 4.6, included dirt and gravel, among other things, each of which constitutes “dredged material” and/or “fill material” within the meaning of 40 C.F.R. § 232.2, and each of which constitutes a “pollutant” within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

4.9 By causing such dredged and/or fill materials to enter waters of the United States, Respondent engaged in the “discharge of pollutants” from a point source within the meaning of Sections 301(a) and 502(12) of the Act, 33 U.S.C. §§ 1311(a) and 1362(12).

4.10 Respondent’s discharges of dredged and/or fill materials described in Paragraph 4.6 above were not authorized by any permit issued pursuant to Section 404 of the Act, 33 U.S.C. § 1344. Respondent is therefore in violation of section 301(a) of the Act, 33 U.S.C. § 1311(a).

4.11 Each day the dredged and/or fill material remains in place without the required permit constitutes an additional day of violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

4.12 Taking into account the seriousness of these violations and any good faith efforts to comply with applicable requirements, the schedule for compliance contained in Section V of this Consent Order is reasonable and appropriate.

V. COMPLIANCE MEASURES

Based upon the foregoing FINDINGS AND CONCLUSIONS and pursuant to Sections 308 and 309(a) of the Act, 33 U.S.C. §§ 1318 and 1319(a), it is hereby AGREED and ORDERED as follows:

5.1. Prohibition of Discharge: Respondents shall not discharge any dredge or fill material into any waters of the United States at the Site except in compliance with this Consent Order or a permit issued or authorized pursuant to the CWA, or CWA Section 404(f).

5.2. Submission of Final Restoration and Mitigation Work Plan: No later than **90 days after the effective date of this Consent Order**, Respondent must submit to the EPA contact identified in Paragraph 5.12 of this Consent Order, for review and approval, a Final Restoration and Mitigation Work Plan consistent with the documents entitled, “Draft Work Plan,” attached as Exhibit “B,” and “Draft Vegetation Plan,” attached as Exhibit “C.” This Final Restoration and Mitigation Work Plan must include:

5.2.1. A scaled site survey, sketch(s) and/or drawing(s), depicting the Site's features and boundaries ("Site Survey") for purposes of being able to locate the restoration and mitigation activities as set forth in paragraph 5.2.2 below;

5.2.2. A description of the exact areas where restoration and mitigation activities will occur, using the Site Survey described in Paragraph 5.2.1 above as a base, including the dimensions (length, width and depth) of the South Farm Ditch to be meandered and the dimensions (length, width, and volume) of the soil and gravel to be removed from the road and the Site restored. Indicate the location of proposed plantings/seeding;

5.2.3. A description of how the work is to be completed, including: (1) a task schedule, including anticipated start dates for when the fill removal and restoration activities would commence; (2) list of heavy earthmoving equipment to be used; (3) the name(s) and contact information for the person(s) and/or contractor(s) that will complete the work under this Compliance Order; (4) the process for meandering the South Farm Ditch and vegetating the area; (5) the process for removing gravel fill and vegetating the area; and (6) the upland disposal location and an estimate of the quantity (cubic yards) of gravel material to be removed;

5.2.4. A list of the best management practices ("BMPs") (including silt fences, silt curtains, work practices, etc.) Respondents will employ during the restoration and mitigation activities to minimize to the maximum extent practicable: (1) the discharge of sediment and other pollutants to waters of the United States, including wetlands; and (2) soil compaction and damage to existing vegetation.

5.2.5. A Vegetation Plan identifying the specific plant species, planting densities, planting locations, and vegetation techniques that Respondents will employ;

5.2.6. A 5-year Monitoring Plan describing the hydrologic monitoring for the remeander of the South Farm Ditch (flow, channel stability, and erosion); vegetation monitoring; and photographic monitoring and documentation for the restoration and

mitigation measures contained in the Final Restoration and Mitigation Work Plan.

Performance standards for the hydrology of the remainder of the South Farm Ditch (flow, channel stability, and erosion) and a 70% survivability rate for the vegetation should be established.

5.2.7. A Contingency Plan (or Adaptive Management Plan) identifying the steps Respondents will take in the event the performance standards for restoration activities are not achieved.

5.3. Approval by EPA: Upon receipt of the Final Restoration and Mitigation Work Plan, EPA will, within a reasonable time, review and approve the plan or submit a request for additional information. Respondent shall respond to an initial request for additional information within 30 days. EPA will review the response to the request for additional information and approve the plan or submit a final request for additional information within a reasonable time.

5.4. Notification to EPA: At least seven days prior to commencing activities on the Site under the EPA-approved Final Restoration and Mitigation Work Plan, Respondent must notify the EPA representative identified in Paragraph 5.12.

5.5. Implementation: **No later than March 31, 2017**, Respondent must complete the restoration work as required by the EPA-approved Final Restoration and Mitigation Work Plan..

5.6. Completion Report: Within fourteen days of completing the on-site mitigation activities described in the EPA-approved Final Restoration and Mitigation Work Plan, Respondents must notify, in writing, the EPA representative identified in Paragraph 5.12. The notification must include photographs of Site conditions before and after compliance with this Consent Order. EPA will approve the Completion Report within a reasonable time, not to exceed thirty (30) days from receipt of Respondents' written notification.

5.7. Annual Report: On or before the first anniversary of EPA's approval of the Completion Report described in Paragraph 5.6 above, Respondents must submit to the EPA contact identified in Paragraph 5.12 of this Consent Order the first of four (4) annual reports that

include: (1) documentation of the hydrologic changes in the remainder of the South Farm Ditch; (2) photographic documentation of the fill removal at the Spur Road; and (3) documentation of the seeding/vegetation efforts described in the EPA-approved Final Restoration and Mitigation Work Plan. Respondent must submit similar such annual reports on the same date in each of the following three years: year 2, year 4, and year 5.

5.8. Site Access: Until termination of this Order, Respondents must, commencing on the Effective Date, provide EPA and its employees and representatives with access at reasonable times, after providing reasonable notice to Respondents, to the Site to inspect the areas of the Site that pertain to implementation of this Consent Order and must provide access to all records and documentation required to be kept as part of the restoration and mitigation activities conducted pursuant to this Consent Order.

5.9. Force Majeure: In the event that there is an actual or anticipated delay attributable to force majeure, the time for performance of the obligation shall be extended by written agreement of the parties. An extension of the time for performing an obligation directly affected by the force majeure event shall not, of itself, extend the time for performing a subsequent obligation.

5.9.1. For the purposes of this Consent Order, “force majeure” shall mean any event beyond the reasonable control of Respondents or any entity controlled by Respondents, including Respondents’ contractors, consultants, and subcontractors, that delays or prevents performance of any obligation under this Consent Order notwithstanding Respondents’ best efforts to avoid the delay. The best efforts requirement includes using best efforts to anticipate any such event and minimize the delay caused by any such event to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any work to be performed under this Consent Order and financial difficulties encountered by Respondents.

5.9.2. If any event may occur or has occurred that may delay the performance of any obligation under this Consent Order, whether or not caused by a force majeure, Respondents must notify by telephone the EPA contact identified in Paragraph 5.12 of this Consent Order, within ten business days of when Respondents became aware that the event might cause a delay. Within ten days thereafter, Respondents must provide in writing the reasons for the delay, the anticipated duration of the delay, the measures taken or to be taken to prevent or minimize the delay, a timetable by which those measures will be implemented, and whether, in Respondents' opinion, such event may cause or contribute to an endangerment to public health or the environment. Respondents must exercise best efforts to avoid or minimize any delay and any effects of a delay. Failure to comply with the notice requirements of this paragraph shall preclude Respondents from asserting any claim of force majeure.

5.9.3. Respondents shall have the burden of demonstrating, by a preponderance of the evidence, that the actual or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay was or will be warranted under the circumstances, that Respondents did exercise or is using best efforts to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of this section.

5.10. Dispute Resolution. Unless otherwise expressly provided for in this Consent Order, the dispute resolution procedures of this provision shall be the exclusive mechanism for resolving disputes arising under this Consent Order. The parties shall attempt to resolve any disagreement concerning this Consent Order expeditiously and informally. If Respondents object to any EPA action taken pursuant to this Consent Order, Respondents shall notify the EPA in writing of their objection within ten (10) days of such action, unless the objection has been resolved informally. The EPA and Respondents shall have thirty (30) days from EPA's receipt of Respondents' written objections to resolve the dispute through formal negotiations (the

“Negotiation Period”). The Negotiation Period may be extended at the sole discretion of the EPA. Any agreement reached by the parties pursuant to this paragraph shall be in writing and shall, upon signature of the parties, be incorporated into and become an enforceable part of this Consent Order. If the parties are unable to reach an agreement within the Negotiation Period, the Director of the Office of Compliance and Enforcement, EPA Region 10, will issue a written decision on the dispute. This decision shall be incorporated into and become an enforceable part of this Consent Order. Respondents’ obligations under this Consent Order shall not be tolled by submission of any objection for dispute resolution under this paragraph. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with the EPA’s decision, whichever first occurs.

5.11. **Modification:** The deadlines set forth in this Consent Order may be modified by written agreement of the Parties.

5.12. **Project Coordinators:** The parties have designated his respective Project Coordinators as follows:

(a) For EPA:

Krista Rave-Perkins
Aquatic Resources Unit
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Mail Stop – ETPA-202
Seattle, Washington 98101
Phone: (206) 553-6686

(b) For Respondents:

William C. Nelson, Jr.
16508 NE 79th St.
Redmond, WA 98052
buffnelson@nelrem.com
Phone: 425-881-7831

The Project Coordinators shall be responsible for overseeing the implementation of this Consent Order and receiving communications, which include, but are not limited to, all documents,

reports, comments, approvals, and other correspondence submitted or exchanged under this Consent Order. EPA and Respondents may change their respective Project Coordinator by giving the other party advance written notice.

5.13. Failure to timely and appropriately implement to EPA's satisfaction any element of the EPA-approved Restoration and Mitigation Plan shall be deemed a violation of this Consent Order and of the Clean Water Act.

5.14. Nationwide Permit 32 for Completed Enforcement Actions, 77 Fed. Reg. 10184, 10184 (Feb. 21, 2012), authorizes "[a]ny structure, work, or discharge of dredged or fill material remaining in place or undertaken for mitigation, restoration, or environmental benefit in compliance with" the terms of a CWA 309(a) Consent Order. Upon the effective date of this Consent Order, as described in paragraph 5.15 below, Respondents shall provide to the District Engineer of the U.S. Army Corps of Engineers, Seattle District an application in the form of the letter attached at Exhibit D, which requests the District Engineer to verify that Nationwide Permit 32 authorizes Respondents to implement the Final Restoration and Mitigation Plan in accordance with the Scope of Work Memo and Work Plan.

5.15. This Consent Order shall become effective on the date it is signed by EPA ("Effective Date") and shall terminate upon written concurrence from EPA that Respondents have complied with its terms.

VI. POTENTIAL SANCTIONS

6.1. Failure to comply with the terms of this CWA Section 309(a) Consent Order may result in your liability for statutory civil penalties under CWA Section 309(d), 33 U.S.C. § 1319(d), as modified 40 C.F.R. Part 19. Should EPA commence an action seeking penalties for violations of this Consent Order, a United States district court may impose civil penalties if, after notice and opportunity for a hearing, the court determines that you have violated the CWA and failed to comply with the terms of the Consent Order. The court has the authority to impose separate civil penalties for violation of the CWA as well as for violation of this Consent Order.

6.2. This Consent Order is not a permit, and nothing in this Consent Order shall be construed to relieve Respondents of any applicable requirements of federal, state, or local law.

The undersigned representative of Respondents certifies that he is fully authorized to enter into the terms and conditions of this Order and to bind Respondents to this document.

STIPULATED and AGREED this ____ day of _____, 2016:

William C Nelson, Jr.

It is so ORDERED and AGREED this ____ day of _____, 2016:

R. David Allnutt, Director
Office of Ecosystems, Tribal and Public Affairs

EXHIBIT A: FARM AND SITE AERIAL PHOTOGRAPH

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Exhibits
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

EXHIBIT B: DRAFT WORK PLAN

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Exhibits
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

EXHIBIT C: DRAFT VEGETATION PLAN

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Exhibits
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

EXHIBIT D: NWP 32 REQUEST LETTER

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
Consent Order – Exhibits
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101**

In the Matter of:

**William C. Nelson, Jr. and
The Estate of Barbara Nelson,
Redmond, Washington**

Respondents.

DOCKET NO. CWA-10-2016-0088

**CONSENT AGREEMENT
AND FINAL ORDER**

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 309(g)(2)(B) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(B).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 309(g)(1) and (2)(B) of the CWA, 33 U.S.C. § 1319(g)(1) and (2)(B), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and William C. Nelson, Jr. and The Estate of Barbara Nelson (“Respondents”) agree to issuance of, the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this CAFO

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
CAFO – Page 1 of 8
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a Class II penalty is proposed to be assessed pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Office of Ecosystems, Tribal and Public Affairs, EPA Region 10 (“Complainant”).

2.3. Part III of this CAFO contains a concise statement of the factual and legal basis for the alleged violations of the CWA together with the specific provisions of the CWA and the implementing regulations that Respondents are alleged to have violated.

III. ALLEGATIONS

3.1. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States by any person, except as authorized by a permit issued pursuant to Section 402 or 404 of the Act, 33 U.S.C. § 1342 or 1344. Each discharge of pollutants from a point source that is not authorized by such a permit constitutes a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

3.2. Respondents are “persons” within the meaning of Sections 301(a) and 502(5) of the Act, 33 U.S.C. §§ 1311(a) and 1362(5).

3.3. Respondents own, possesses, and/or control approximately 124 acres of real property in Redmond, Washington, known as Gunshy Manor Farm (hereafter “the Farm”). The Farm is located near 7240 196th Avenue, Redmond, Washington, 98053, Latitude 47.669589°, Longitude -122.076217°. On February 18, 2015, Agency staff from the EPA, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, and the Washington State Department of Ecology conducted a site visit and collected soil samples at the Farm.

3.4. At the time of the unauthorized activities described below, the Farm contained wetlands within the meaning of 33 C.F.R. § 328.3(b) and 40 C.F.R. § 232.2. The wetlands impacted by the alleged unauthorized discharges described in paragraph 3.6 below meet the criteria for jurisdictional wetlands in the 1987 “Federal Manual for Identifying and Delineating Jurisdictional Wetlands.”

3.5. The wetland areas impacted by the alleged unauthorized discharges described in paragraph 3.6 below are adjacent and hydrologically connected to ditches and streams that eventually flow into Evans Creek, which flows into Bear Creek, which flows into the Sammamish River. The Sammamish River is a Rivers and Harbors Act Section 10, 33 U.S.C. § 403, water and is a “water of the United States” as defined in 33 C.F.R. § 328.3(a)(1), and 40 C.F.R. § 232.2, and is therefore is a “navigable water” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7). Consequently, the ditches and streams and adjacent wetlands impacted by the alleged unauthorized discharges described in paragraph 3.6 below are “waters of the United States” within the meaning of 33 C.F.R. §§ 328.3(5)&(7) and 40 C.F.R. § 232.2, and therefore “navigable waters” as defined in CWA Section 502(7), 33 U.S.C. § 1362(7).

3.6. On or before January 2010 to the effective date of this agreement, at times more fully known to Respondents, Respondents and/or persons acting on their behalf, used heavy earth-moving equipment to place dredged and/or fill material into wetlands and other waters of the United States at the Farm. This activity occurred when Respondents spread fill material in areas known as the Spur Farm Road and the Loop Farm Road and in a portion of the South Farm Ditch located in the Summer Pasture, which areas are generally depicted in the Site Aerial Photograph, attached as Exhibit A, hereafter referred to as “the Site”.

3.7. The construction equipment referenced in Paragraph 3.6 is a “point source” within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

3.8. The dredged and/or fill materials that Respondents and/or persons acting on their behalf caused to be discharged, as referenced in Paragraph 3.6, included dirt and gravel, among

other things, each of which constitutes “dredged material” and/or “fill material” within the meaning of 40 C.F.R. § 232.2, and each of which constitutes a “pollutant” within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

3.9. By causing such dredged and/or fill materials to enter waters of the United States, Respondents engaged in the “discharge of pollutants” from a point source within the meaning of Sections 301(a) and 502(12) of the Act, 33 U.S.C. §§ 1311(a) and 1362(12).

3.10. Respondents’ discharges of dredged and/or fill materials described in Paragraph 3.6 above were not authorized by any permit issued pursuant to Section 404 of the Act, 33 U.S.C. § 1344. Respondents are therefore in violation of section 301(a) of the Act, 33 U.S.C. § 1311(a).

3.11. Each day the dredged and/or fill material remains in place without the required permit constitutes an additional day of violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

3.12. In accordance with Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19, Respondents are liable for the administrative assessment of civil penalties for violations at the Site in an amount not to exceed \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

IV. CONSENT AGREEMENT

4.1. For purposes of this Consent Agreement and Final Order, or any action to enforce it, Respondents admit the jurisdictional allegations of this CAFO.

4.2. Respondents neither admit nor deny the specific factual allegations contained in this CAFO.

4.3. As required by Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the alleged violations as well

as Respondents' degree of culpability, economic benefit of noncompliance, ability to pay, and other relevant factors. After considering all of these factors, EPA has determined and Respondents agree that an appropriate penalty to settle this action is \$10,000.

4.4. Respondents agree to pay the total civil penalty set forth in Paragraph 4.3 within 30 days of the effective date of the Final Order contained in Part V of this CAFO.

4.5. Payment under this CAFO must be made by a cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondents must note on the check the title and docket number of this action.

4.6. Respondents must serve photocopies of the check described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Krista Rave-Perkins
U.S. Environmental Protection Agency,
Region 10, Mail Stop – ETPA-202
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

4.7. If Respondents fail to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondents to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.7.1. Interest. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), any unpaid portion of the assessed penalty shall bear interest at a rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order set forth in Part V, provided however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

4.7.2. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondents fail to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondents shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondents' penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.8. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.7, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.9. Except as described in Subparagraph 4.7.2, above, each party shall bear its own costs in bringing or defending this action.

4.10. For purposes of this Consent Agreement and Final Order, Respondents expressly waive any right to contest the allegations and waives any right to appeal the Final Order set forth in Part V.

4.11. The provisions of this CAFO shall bind Respondents and its agents, servants,

employees, successors, and assigns.

4.12. The above provisions are STIPULATED AND AGREED upon by Respondents and EPA Region 10.

DATED:

FOR RESPONDENTS:

WILLIAM C. NELSON, JR.

DATED:

FOR COMPLAINANT:

R. DAVID ALLNUTT, Director
Office of Ecosystems, Tribal and Public Affairs
EPA Region 10

V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondents are ordered to comply with the terms of settlement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondents' obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

5.3. In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and

40 C.F.R. § 22.38(b), the Washington Department of Ecology has been given the opportunity to consult with EPA regarding the assessment of the administrative civil penalty against Respondent.

5.4. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA has issued public notice of and provided reasonable opportunity to comment on its intent to assess an administrative penalty against Respondents. More than 40 days have elapsed since issuance of this public notice and EPA has received no petition to set aside the Consent Agreement contained herein.

5.5. This Final Order shall become effective upon filing.

SO ORDERED this ____ day of _____, 2016.

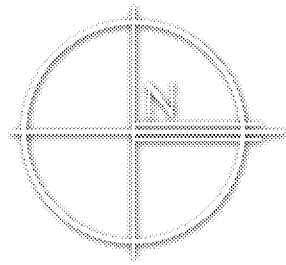
M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

EXHIBIT A: FARM AND SITE AERIAL PHOTOGRAPH

**William C. Nelson, Jr. and
The Estate of Barbara Nelson
CAFO – Exhibit A
Docket Number CWA-10-2016-0088**

**U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1073**

GUNSHY MANOR FARM, EXHIBIT A



NOT TO SCALE



LEGEND

FARM DITCH

STREAM

DIRT FARM ROAD

GRAVEL FARM ROAD

PAVED FARM ROAD

PROPERTY BOUNDARY

This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of Waters of the U.S.

COLOR AERIAL PHOTO: KING COUNTY, 2011

ESM

CONSULTING ENGINEERS LLC

33400 8th Avenue South, Suite 205
Federal Way, WA 98003

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CIVIL

(206) 287-9900

ESTATE OF BARBARA J. NESLON

GUNSHY MANOR

GUNSHY MANOR FARM EXHIBIT

KING COUNTY

WASHINGTON

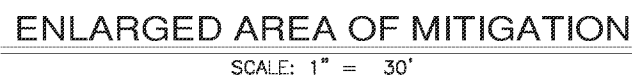
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DWG. NAME:	MG-PL-31-KC
DESIGNED BY:	EGL
DRAWN BY:	DCL
CHECKED BY:	
DATE:	11/03/2015
DATE OF PRINT:	

GUNSHY MANOR FARM

EPA DRAFT WORK PLAN

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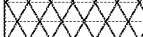

MITIGATION PROPOSED:

- (A) REALIGN FARM DITCH D1 TO MATCH HISTORIC ALIGNMENT (2009). REPLANT DISTURBED AREAS WITH PASTURE SEED MIX FOR CONTINUED USE FOR HAY PRODUCTION.
- (B) REPLANT DISTURBED AREA WITH PASTURE SEED MIX FOR CONTINUED USE FOR HAY PRODUCTION.

ADDITIONAL PLANTING

- (C) PLANT NATIVE SPECIES EVERGREEN AND DECIDUOUS TREES TO PROVIDE SHADE AND REDUCTION OF WATER TEMPERATURE PER APPROVED KING CONSERVATION DISTRICT FARM CONSERVATION PLAN. SEE VEGETATION PLAN PREPARED BY TALASAEA CONSULTANTS FOR DETAILS.

SYMBOL LEGEND

	PLANT NATIVE SPECIES EVERGREEN AND DECIDUOUS TREES TO PROVIDE SHADE AND REDUCTION OF WATER TEMPERATURE PER APPROVED KING CONSERVATION DISTRICT FARM CONSERVATION PLAN. SEE VEGETATION PLAN PREPARED BY TALASAEA CONSULTANTS FOR DETAIL.
	REPLANT WITH PASTURE SEED MIX AS NECESSARY TO PROVIDE COMPLETE COVERAGE. REFER TO SEED CHART THIS SHEET.
PASTURE AND HAYLAND RENOVATION	
A. CONTROL PROBLEM PERENNIAL WEEDS.	
B. PRIOR TO SEEDING, APPLY LIME AND FERTILIZER AT RATES IN ACCORDANCE WITH CURRENT SOIL TESTING.	
C. PLOW OR DISC OLD SOD AS EARLY AS POSSIBLE.	
D. HARROW TO PREPARE A SMOOTH, FIRM SEEDBED.	
E. PLANT TO DESIRED PASTURE SPECIES IN EARLY FALL.	

SEED CHART

FORAGE SPECIES ADAPTATION BY USE AND SOIL TYPE		
SOIL TYPE	USE: GRAZING ONLY OR GRAZING & HAY	USE: EXCLUSIVELY FOR HAY
SOMEWHAT POORLY DRAINED IN WINTER AND EARLY SPRING	TALL FESCUE ANNUAL RYEGRASS PERENNIAL RYEGRASS ALSICO CLOVER WHITE CLOVER BIG TREFOIL BIRDSFOOT TREFOIL	TALL FESCUE TIMOTHY ¹ ALSICO CLOVER WHITE CLOVER BIG TREFOIL BIRDSFOOT TREFOIL
RECOMMENDED SEEDING SEASON: SPRING OR FALL		
MIXED DRAINAGE; DRY UPLANDS AND WET SWALES	TALL FESCUE ANNUAL RYEGRASS PERENNIAL RYEGRASS ALSICO CLOVER WHITE CLOVER BIG TREFOIL BIRDSFOOT TREFOIL MEADOW FOXTAIL	TALL FESCUE ORCHARDGRASS ² TIMOTHY ¹ ALSICO CLOVER RED CLOVER WHITE CLOVER BIG TREFOIL BIRDSFOOT TREFOIL MEADOW FOXTAIL ²
RECOMMENDED SEEDING SEASON: FALL		

1. USE ONLY IN A MIX WITH OTHER SPECIES.

2. SEEDING NOT RECOMMENDED FOR MANAGEMENT AND REJUVENATION OF EXISTING STANDS.

SEE SPECIES INFORMATION, (PASTURE AND HAYLAND RENOVATION FOR WESTERN WASHINGTON AND OREGON, WASHINGTON STATE UNIVERSITY EXTENSION)

NOTE: This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of waters of the U.S.

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SEE SHEET EN-04

SEE SHEET EN-06

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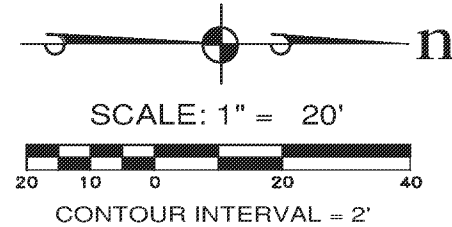
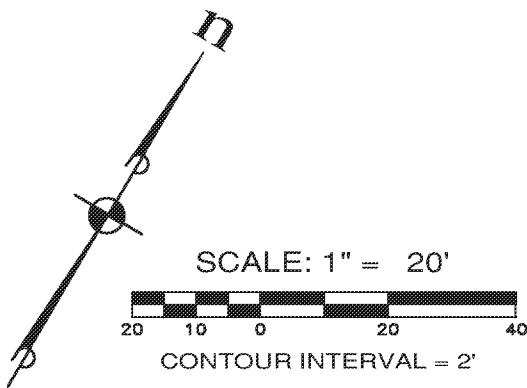
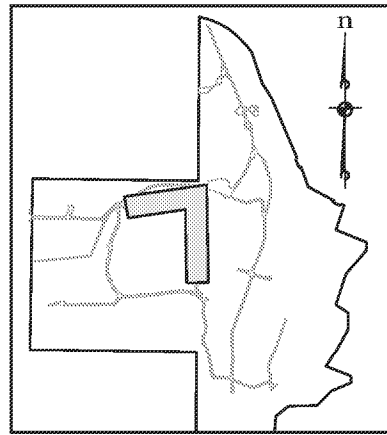


TABLE OF MITIGATION / RESTORATION SEQUENCE FOR WORK AREAS

C PLANT NATIVE SPECIES EVERGREEN TREES TO PROVIDE SHADE AND REDUCTION OF WATER TEMPERATURE PER APPROVED KING CONSERVATION DISTRICT FARM CONSERVATION PLAN. SEE VEGETATION PLAN PREPARED BY TALASAEA CONSULTANTS FOR DETAIL.



KEY MAP

SEE VIEW ABOVE

SEE VIEW BELOW

FARM DITCH D2

FARM DITCH D2

NOTE: This diagram is for general orientation purposes and does not reflect an EPA approved wetland delineation or a determination of the geographic extent of waters of the U.S.

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2003
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WA 98003
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Landscape Architecture

THE ESTATE OF BARBARA J. NELSON

GUNSHY MANOR FARM

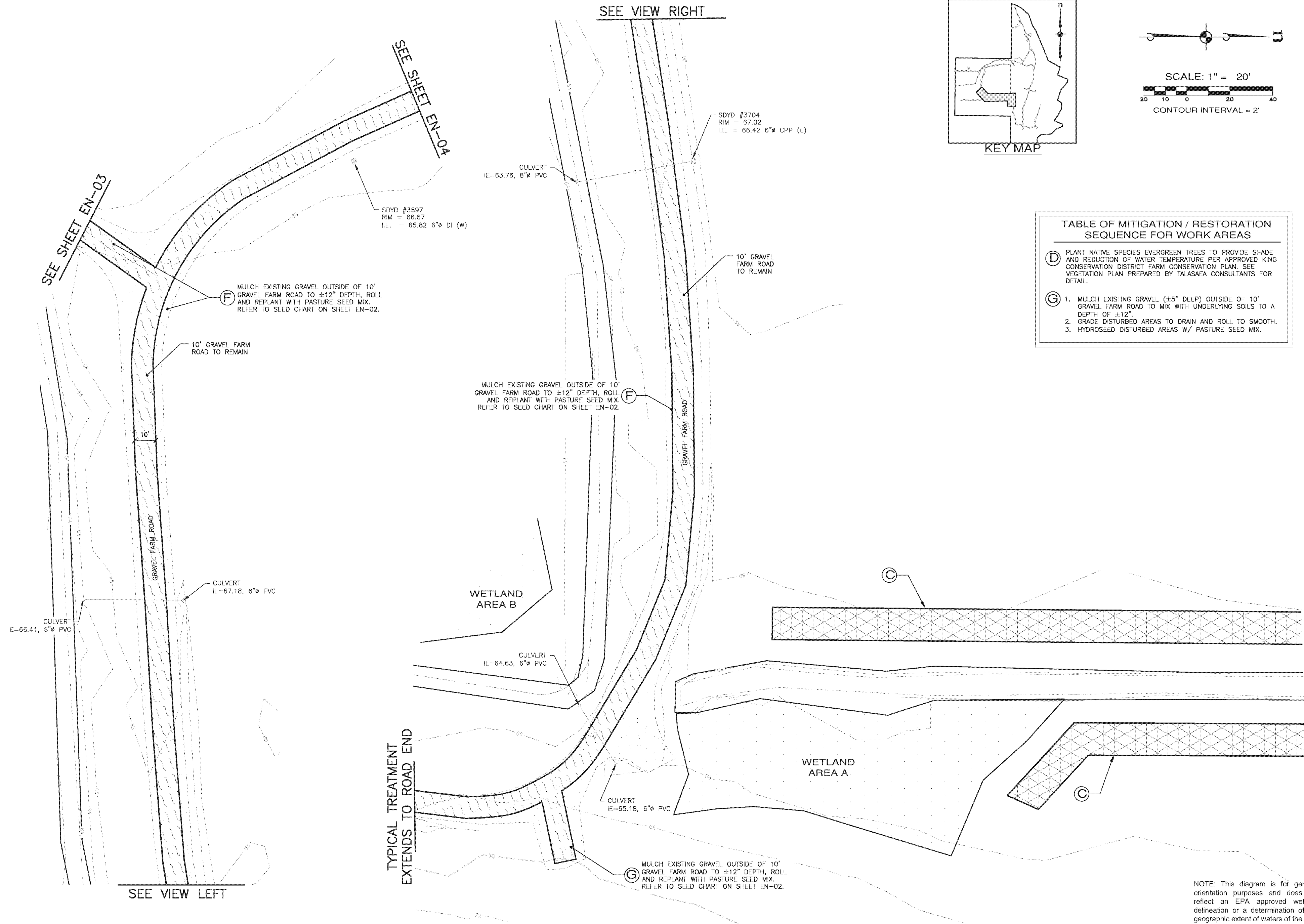
KING COUNTY

EPA DRAFT WORK PLAN

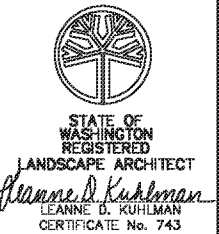
WASHINGTON

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DWG. NAME:	EN-05
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THE ESTATE OF BARBARA J. NELSON

GUNSHY MANOR FARM

EPA DRAFT WORK PLAN

KING COUNTY

WASHINGTON

JOB NO.:	1359-001-012
DWG. NAME:	EN-06
DESIGNED BY:	EG.
DRAWN BY:	LDK
CHECKED BY:	
DATE:	10/14/2015
DATE OF PRINT:	

DRAFT VEGETATION PLAN

GUNSHY MANOR KING COUNTY, WASHINGTON

Prepared For:

THE ESTATE OF BARBARA J. NELSON.
Redmond, Washington

Prepared By:

TALASAEA CONSULTANTS, INC.
Woodinville, Washington

February 4th, 2016



February 4, 2016

Tal-1147

Mr. Buff Nelson
Estate of Barbara J. Nelson
16508 NE 79th Street
Redmond, WA 98052

REFERENCE: Gunshy Manor Farm Property

SUBJECT: Draft Vegetation Plan – Letter of Explanation

Dear Buff:

This letter provides some additional context to the attached Draft Vegetation Plan (Figure TC-1) for the Gunshy Manor farm property. This Draft Vegetation Plan provides additional diversity and complexity to the EPA Final Restoration Work Plan dated August 11th, 2015 (Figure EPA-1).

Gunshy Manor is an existing and fully functioning farm with a rich history. Because there is already considerable loss of valuable farmland in the Vegetation Plan, we have taken care to ensure that the vegetation not functionally interfere with the maintenance and operations of the farm and have avoided causing additional loss of farming land. The additional areas of vegetation take into account the need to preserve farmland and are consistent with and support the neighborhood's history of a rustic and pastoral environment. Our proposed additional shrubs and trees add diversity and complexity to the planting areas.

The mitigation areas outlined below reference Figure EPA-1. The location of the proposed supplemental vegetation communities is reflected in the Draft Vegetation Plan (Figure TC-1) and its associated figures:

Mitigation Area A (Figure EPA-1):

- Farm Ditch D1 shall be realigned (see civil plans) and planted with a variety of native trees/shrub species to enhance habitat complexity. **See Figure 1: Proposed Planting Community 1** for more information of conceptual plant spacing and arrangement.

Mitigation Area B (Figure EPA-1):

- Wetland Area B: See civil plans for restoration dated on 11 August 2015, with work completed in August 2015.

Mitigation Area C (Figure EPA-1):

- West of Wetland Area B: Area adjacent to Evans Creek and Red Brick Road. This is a High Visual Impact area. **See Figure 3: Proposed Planting Community 3** for more information of conceptual plant spacing and arrangement.
 - Create shading of Evans Creek for anadromous fish habitat.
 - Plant wet adapted species throughout riparian habitat area.
 - Plant understory shrubs in existing vegetated areas
 - Create access routes (approx. 10-foot wide, and 45 feet O.C.) in-between planting islands for farm maintenance.
- Confluence Farm Ditch 1 & 2: Area adjacent to Wetland Area B. Must be wet adapted due to seasonal high water table and periodic flooding from Evans Creek. **See Figure 2: Proposed Planting Community 2** for more information of conceptual plant spacing and arrangement.
 - Create shading of Ditch 2 for anadromous fish habitat.
 - Plant wet adapted species throughout riparian habitat area.
- Farm Ditch 2: Area adjacent to Thompson Field. Must not shade out fields due to agricultural production needs. **See Figure 4: Proposed Planting Community 4** for more information of conceptual plant spacing and arrangement.
 - Create shading of Farm Ditch 2 for anadromous fish habitat.
 - Plant predominately coniferous species throughout riparian habitat area.
 - Create access routes (approx. 10-foot wide, and 45 feet O.C.) in-between planting islands for farm maintenance.
 - Apply soil amendments as needed.

The EPA Final Restoration Work Plan proposed planting of approximately 200 coniferous trees along the farm ditches that require shade for anadromous fish habitat (see civil plans by ESM).

The **Proposed Planting Communities 1, 2, 3, and 4** contain approximately 125 trees, in addition to approximately 500 shrubs that, in combination, promote the desired habitat complexity and diversity.

Mr. Buff Nelson
Estate of Barbara J. Nelson
4 February 2016
Page 3 of 5

If you have any questions or need any additional information, please contact me as soon as possible via email at bshiels@talasaea.com or via phone at 425-861-7550.

Sincerely,

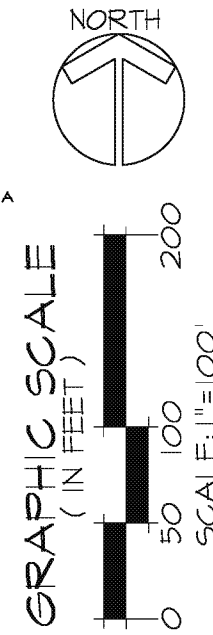
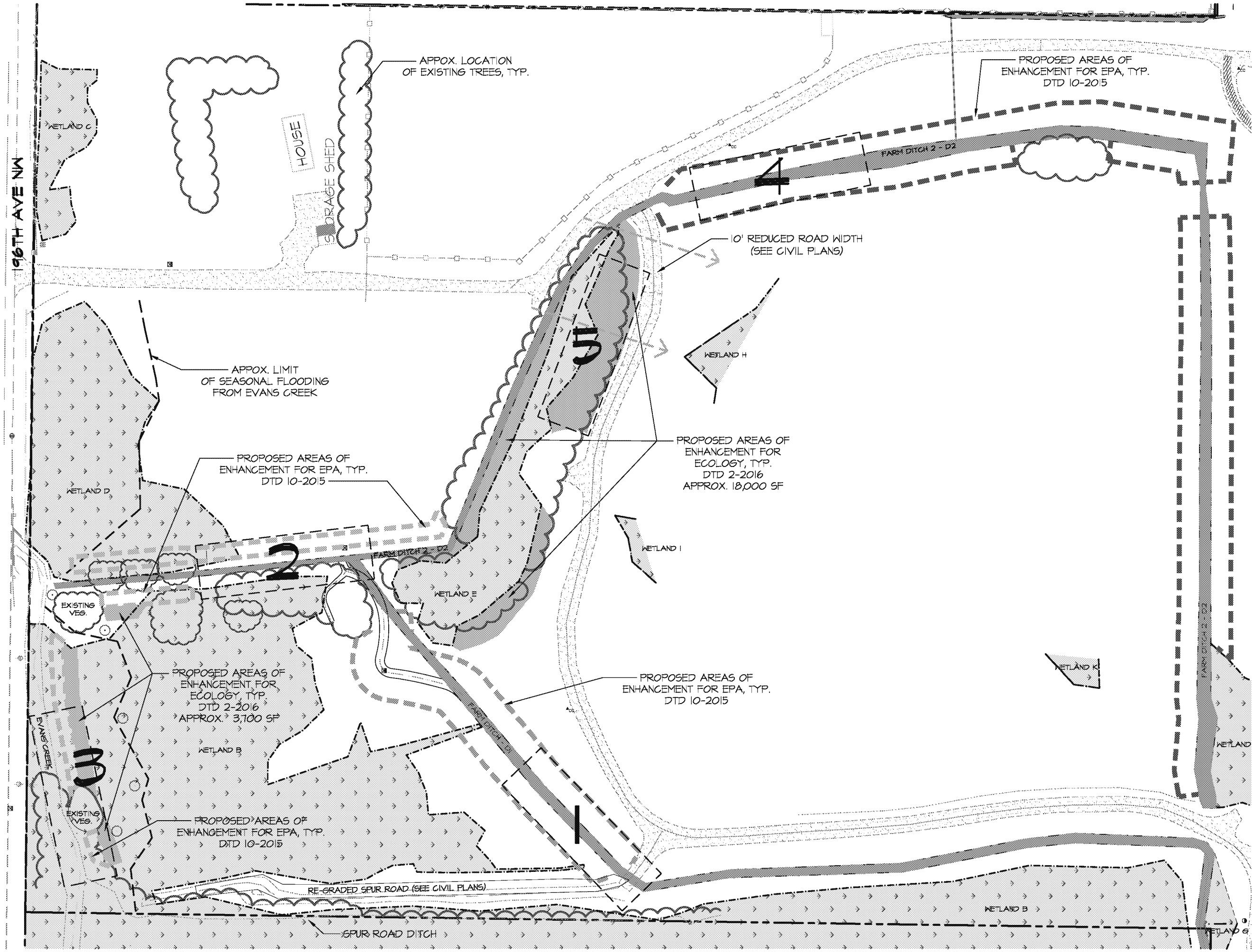
TALASAEA CONSULTANTS, INC.

William E. Shiels
Principal

Attachments:

- Figure TC-1: Draft Vegetation Plan
- Figure EPA-1: EPA Final Restoration Work Plan, prepared by ESM, dated 8-11-2015
- Figures 1, 2, 3, and 4: Proposed Planting Community
- Figure 5: Candidate Plant List
- Plant Illustrations

cc: Lori Terry Gregory, Foster Pepper
Eric LaBrie, ESM Consulting Engineers
David Halinen, P.E., Esq.
File



THIS DIAGRAM IS FOR GENERAL ORIENTATION PURPOSES AND DOES NOT REFLECT AN EPA APPROVED WETLAND DELINEATION OR A DETERMINATION OF THE GEOGRAPHIC EXTENT OF WATERS OF THE U.S.

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LEGEND

ENHANCEMENT AREAS FOR EPA

ENHANCEMENT AREAS FOR ECOLOGY

TALASAEA
CONSULTANTS, INC.
Resource & Environmental Planning
15020 Bear Creek Road Northeast
Woodinville, Washington 98077
Bus (425)661-7550 - Fax (425)661-7549

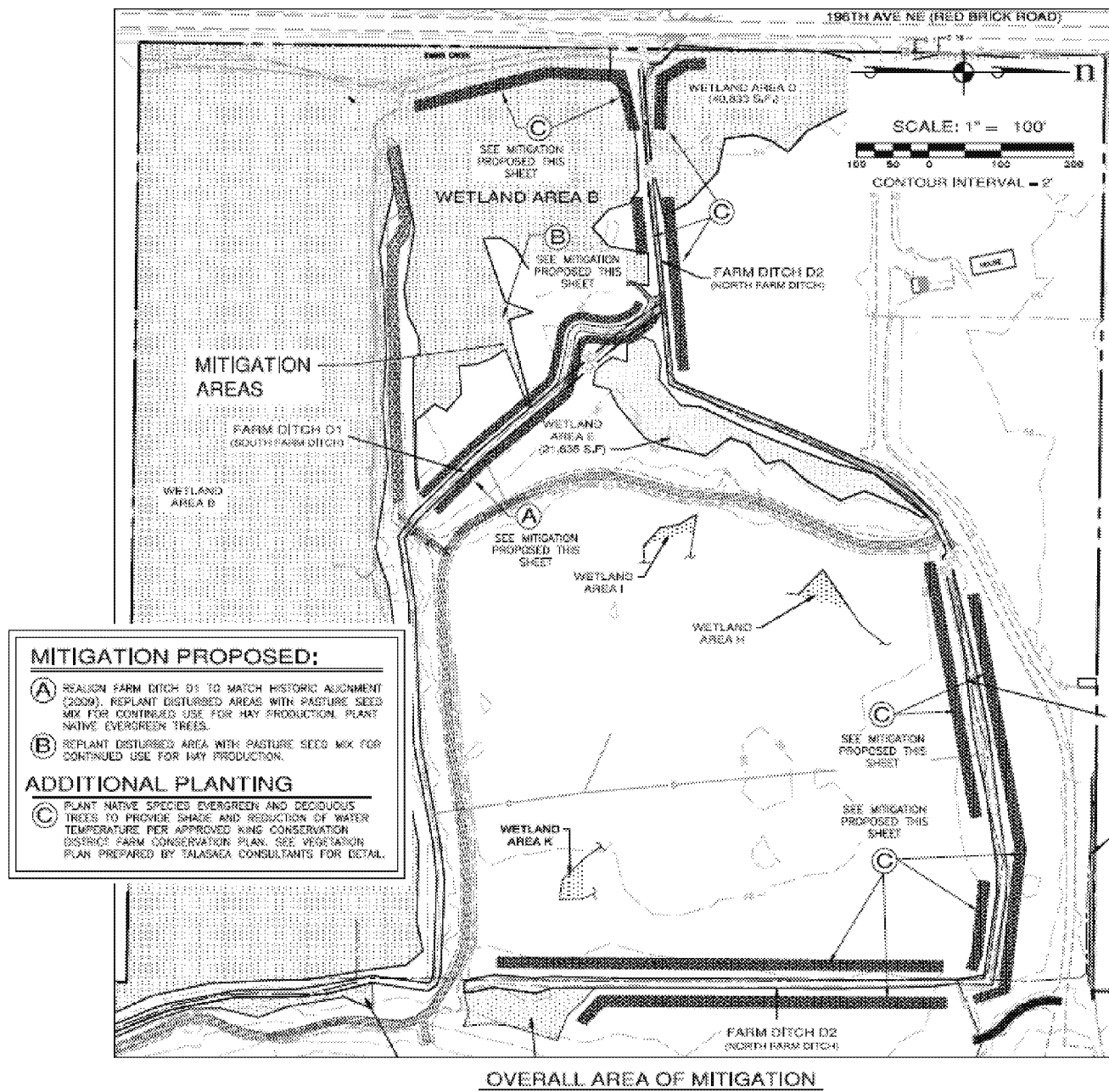
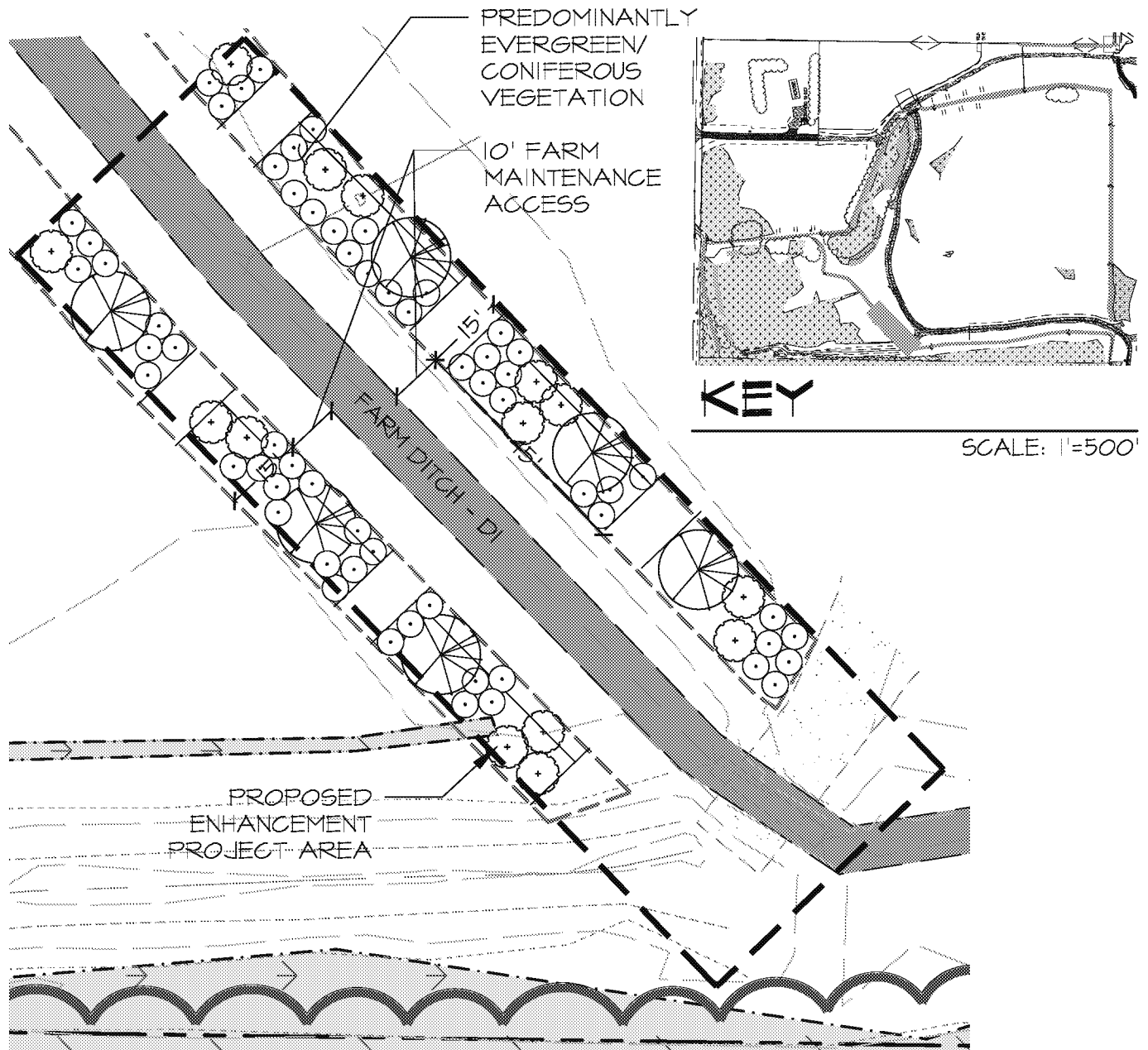


Figure EPA-1: EPA Final Restoration Work Plan prepared by ESM, dated 8-11-2015
(Sheet EN02 (clip only)).

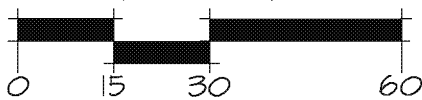
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PLANTING COMMUNITY I

SEE CANDIDATE PLANT LIST ON FIGURE 5

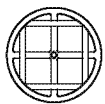
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SCALE: 1"=30'



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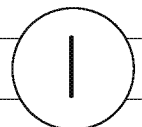
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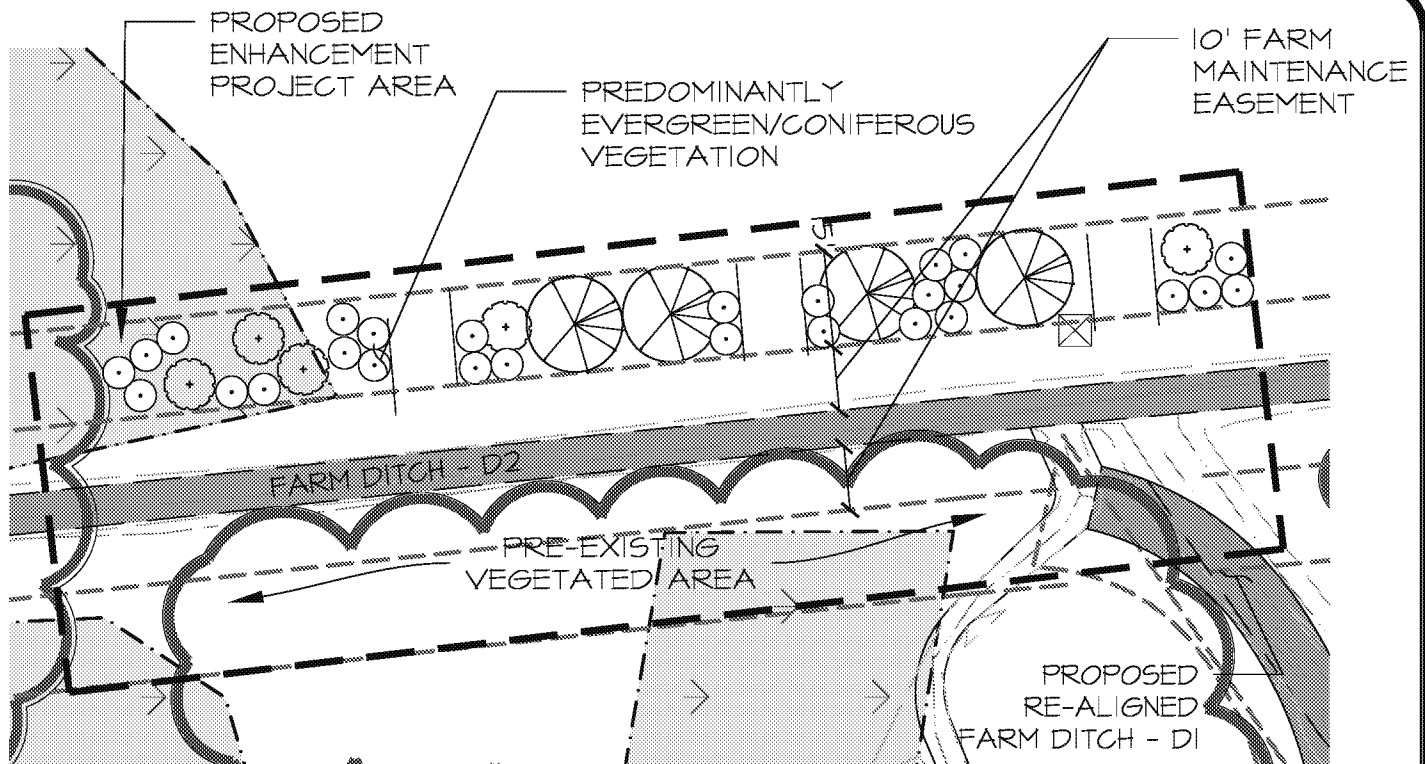
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FIGURE #1

PROPOSED PLANTING COMMUNITY I
GUNSHY MANOR
REDMOND, WASHINGTON

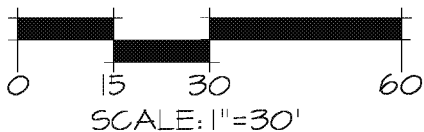
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PLANTING COMMUNITY 2

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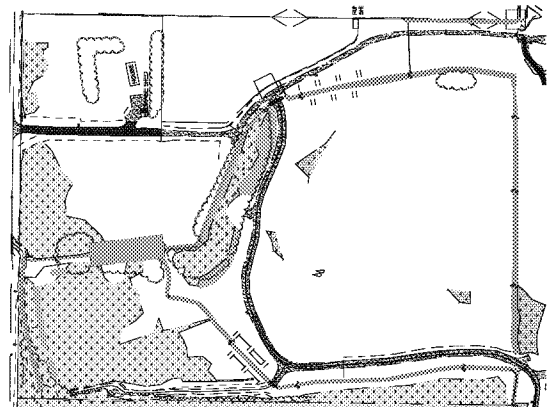
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○ MASSING SHRUB

⊕ LARGE SHRUB/SMALL TREE

⊗ CONIFEROUS TREE

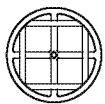
SEE CANDIDATE PLANT LIST ON FIGURE 5



KEY

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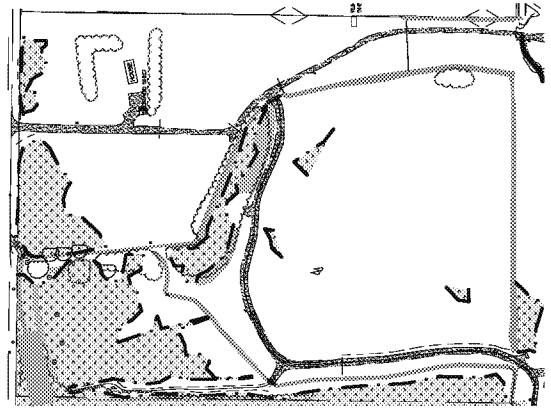
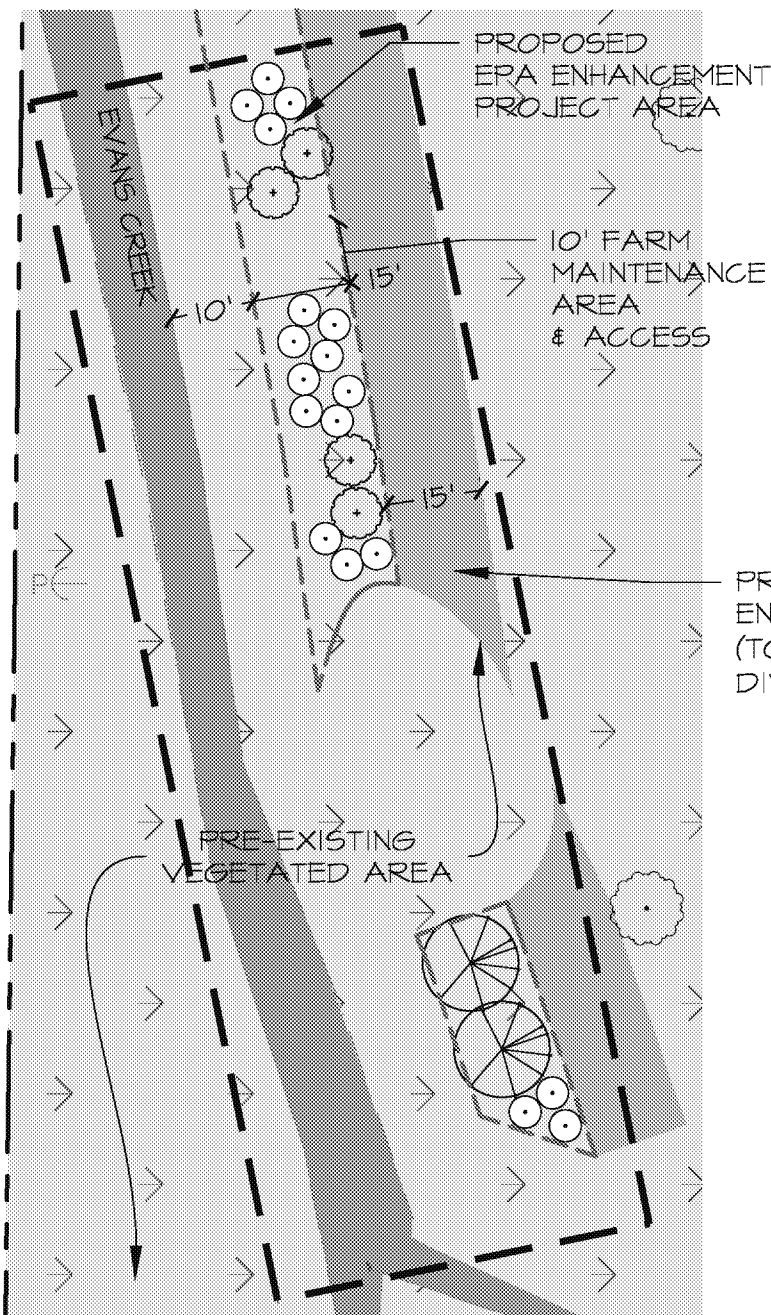
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FIGURE #2

PROPOSED PLANTING COMMUNITY 2
GUNSHY MANOR
REDMOND, WASHINGTON

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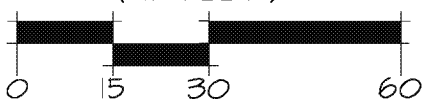
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PROPOSED ECOLOGY ENHANCEMENT PROJECT AREA (TO MATCH EPA PLANT MATERIAL DIVERSITY AND DENSITY)

PLANTING COMMUNITY 3

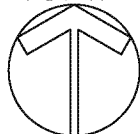
SEE CANDIDATE PLANT LIST ON FIGURE 5

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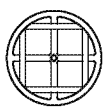


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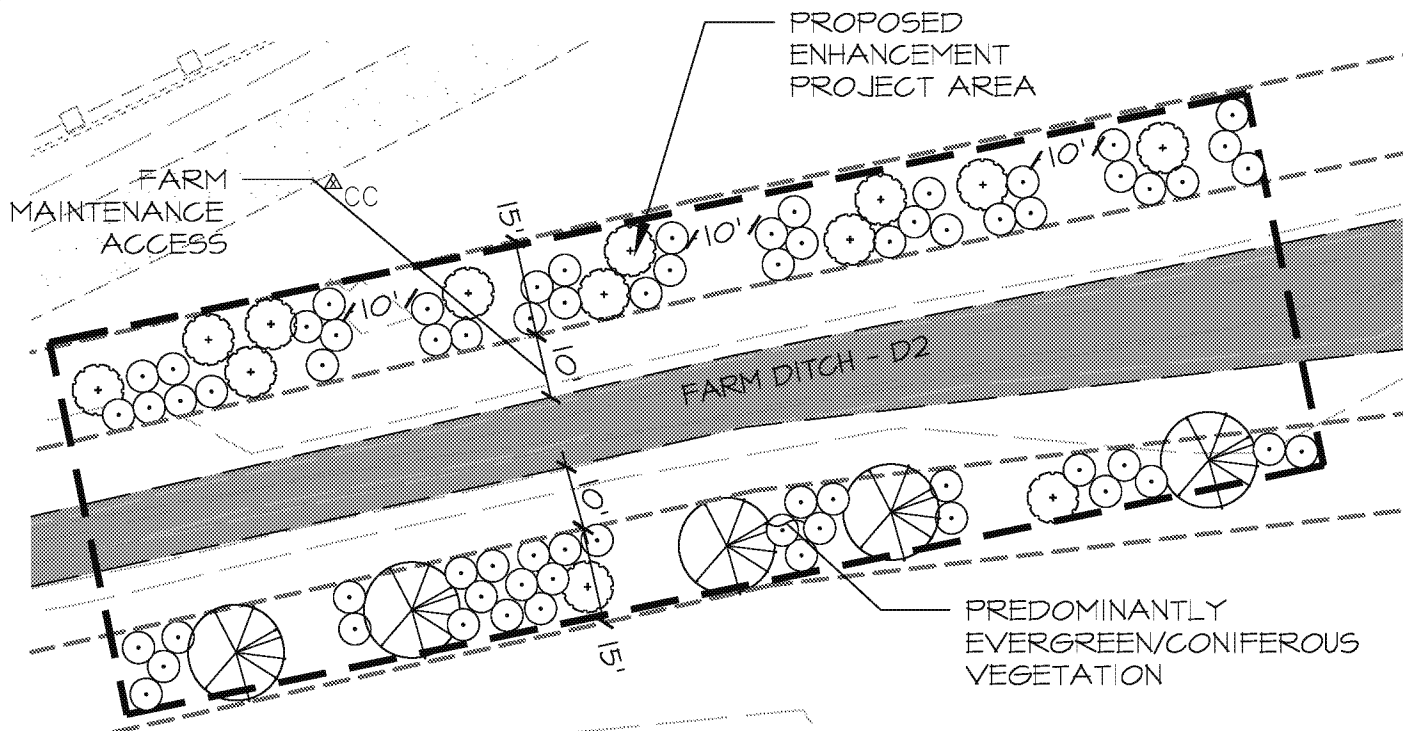
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FIGURE #3

PROPOSED PLANTING COMMUNITY 3
GUNSHY MANOR
REDMOND, WASHINGTON

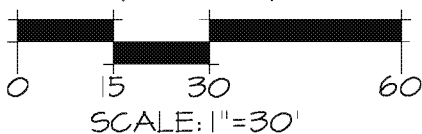
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PLANTING COMMUNITY 4

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(IN FEET)



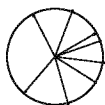
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MASSING SHRUB

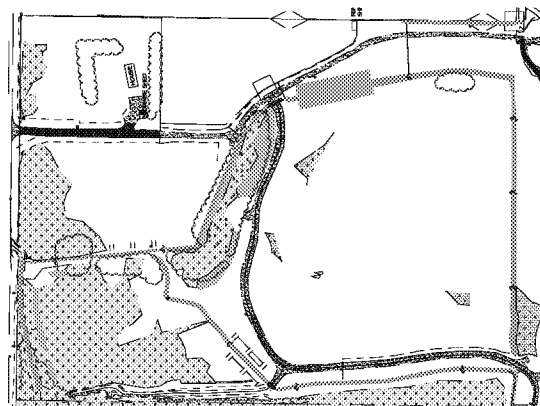


LARGE SHRUB/SMALL TREE



CONIFEROUS TREE

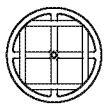
SEE CANDIDATE PLANT LIST ON FIGURE 5



KEY

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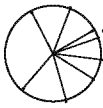
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Woodinville, Washington 98077
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FIGURE #4

PROPOSED PLANTING COMMUNITY 4
GUNSHY MANOR
REDMOND, WASHINGTON

DESIGN	DRAWN	PROJECT
BS	ABS	1147
SCALE		
AS SHOWN		
DATE		
10-13-2015		
REVISED		

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CANDIDATE PLANT LIST

CONIFEROUS TREES

SCIENTIFIC NAME	COMMON NAME	WL STATUS	SPACING	SIZE (MIN.)	NOTES
PICEA SITCHENSIS	SITKA SPRUCE	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY
PINUS CONTORTA VAR. CONTORTA	SHORE PINE	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY
THUJA PLICATA	WESTERN RED CEDAR	FAC	AS SHOWN	2-3' HT.	B&B, FULL & BUSHY



SMALL DECIDUOUS TREE/LARGE SHRUB

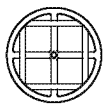
SCIENTIFIC NAME	COMMON NAME	WL STATUS	SPACING	SIZE (MIN.)	NOTES
ACER CIRCINATUM	VINE MAPLE	FAC	AS SHOWN	24" HT.	SINGLE TRUNK
CRATAEGUS DOUGLASII	BLACK HAWTHORN	FAC	AS SHOWN	24" HT.	SINGLE TRUNK
MAHONIA AQUIFOLIUM	OREGONGRAPE	FACU	AS SHOWN	24" HT.	SINGLE TRUNK
PHYSOCARPUS CAPITATUS	PACIFIC NINEBARK	FACW	AS SHOWN	24" HT.	SINGLE TRUNK
VIBURNUM EDULE	HIGH-BUSH CRANBERRY	FACW	AS SHOWN	24" HT.	SINGLE TRUNK



MASSING SHRUB

SCIENTIFIC NAME	COMMON NAME	WL STATUS	SPACING	SIZE (MIN.)	NOTES
CORNUS SERICEA	RED-OSIER DOGWOOD	FACW	4' O.C.	NA	4' CUTTING
LONICERA INVOLUCRATA	BLACK TWIN-BERRY	FAC	4' O.C.	NA	4' CUTTING
ROSA NUTKANA	NOOTKA ROSE	FAC	4' O.C.	18" HT.	MULTI-CANE (3 MIN.)
ROSA PISOCARPA	CLUSTERED WILD ROSE	FAC	4' O.C.	18" HT.	MULTI-CANE (3 MIN.)
SYMPHORICARPOS ALBUS	COMMON SNOWBERRY	FACU	4' O.C.	NA	4' CUTTING
VACCINIUM OVATUM	EVERGREEN HUCKLEBERRY	FACU	4' O.C.	18" HT.	MULTI-CANE (3 MIN.)

NOTE: PLANT SPECIES ARE SUBJECT TO CHANGE DUE TO AVAILABILITY OF PLANT STOCK AT TIME OF PLANTING AND ENVIRONMENTAL CONSTRAINTS.



TALASAEA
CONSULTANTS, INC.

Resource & Environmental Planning
15020 Bear Creek Road Northeast
Woodinville, Washington 98077
Bus (425)861-7550 - Fax (425)861-7549

FIGURE #5

CANDIDATE PLANT LIST
GUNSHY MANOR
REDMOND, WASHINGTON

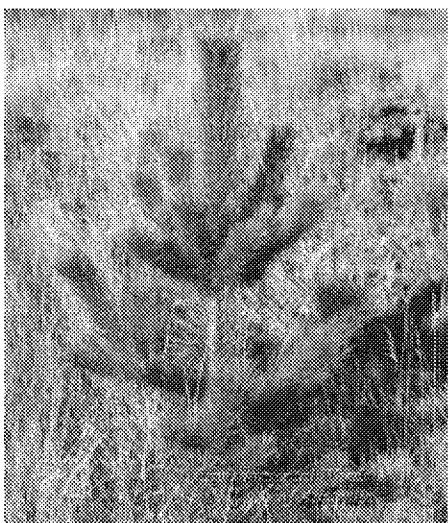
DESIGN	DRAWN	PROJECT
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REVISED		

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Native Plant Example

Conifer

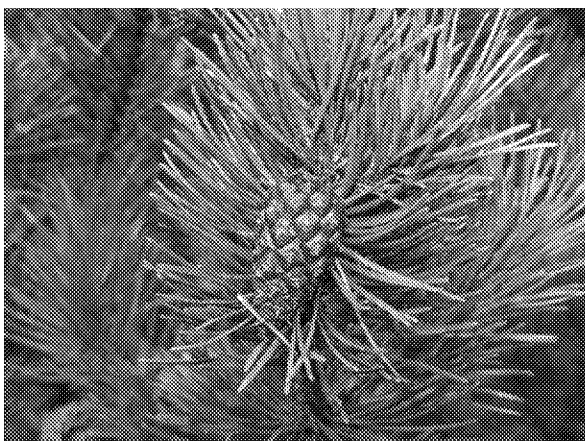
Pinus contorta var. *contorta*
(Shore Pine)



Sapling



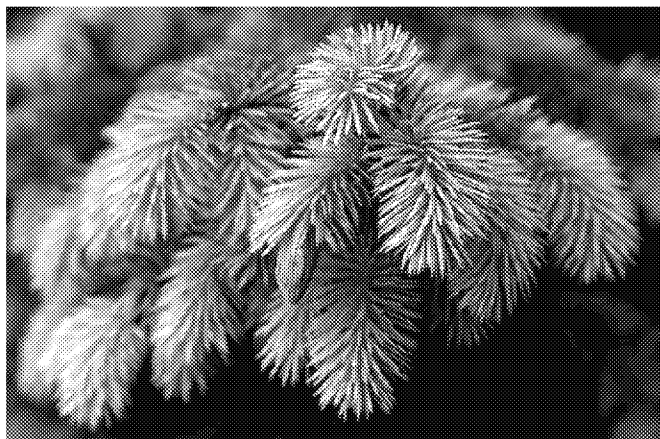
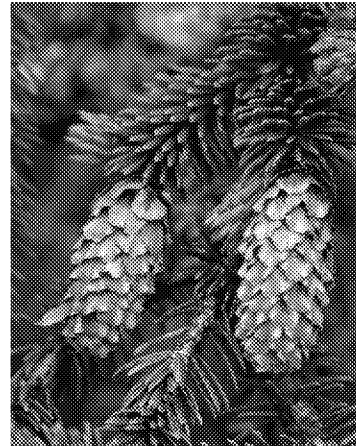
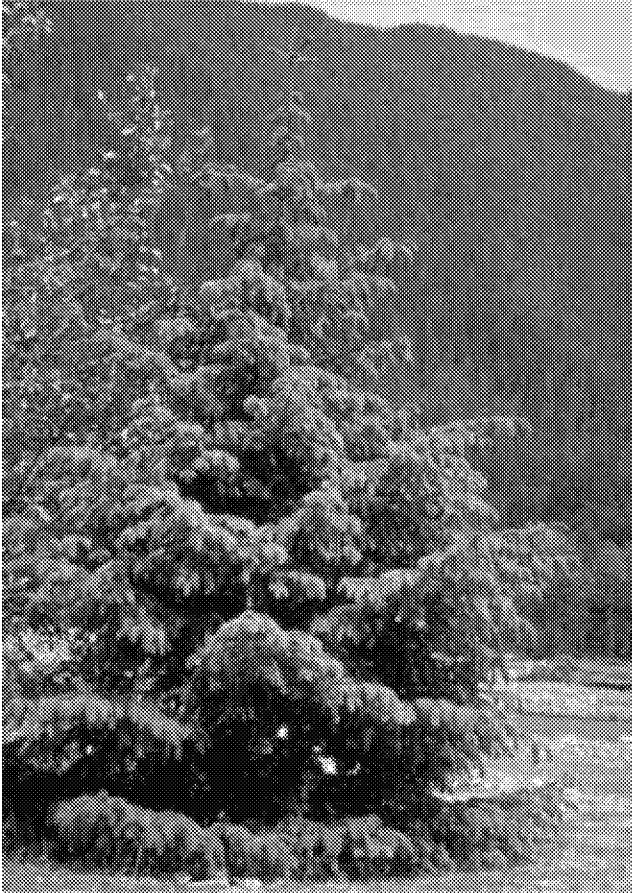
Bark



Native Plant Example

Conifer

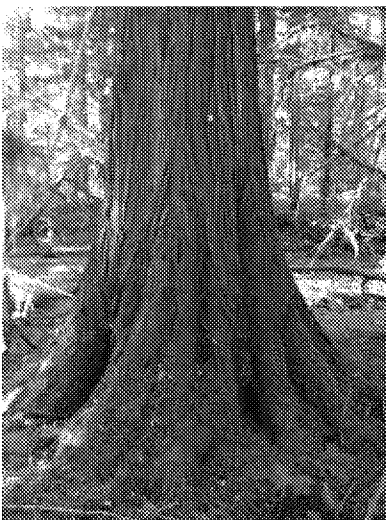
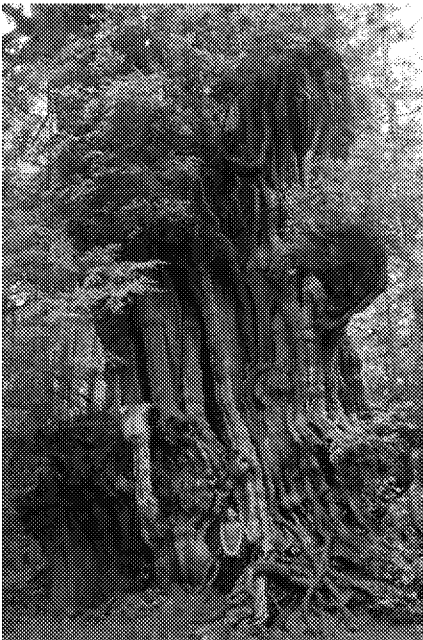
Sitka Spruce
(*Picea sitchensis*)



Native Plant Example

Conifer

Western Red Cedar
(*Thuja Plicata*)



Native Plant Example

Riparian / Wetland Shrub

Pacific Ninebark (*Physocarpus capitatus*)



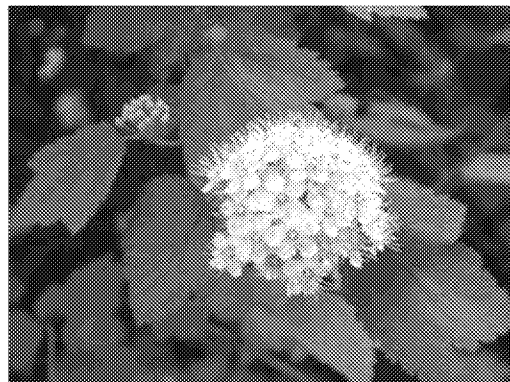
Mature plant



Spring flowers



Fruit



Spring flowers

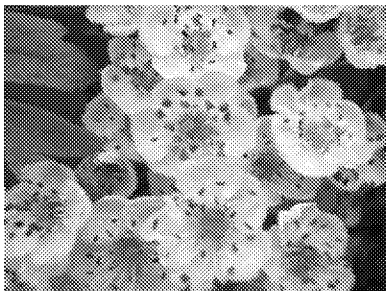


Fall color

Native Plant Example

Small Tree/Large Shrub

Black Hawthorn
(*Crataegus douglasii*)



Native Plant Example

Riparian / Wetland Shrub

Highbush Cranberry (*Viburnum edule*)



Mature plant



Fruit & fall color



Spring flowers



Spring foliage

Native Plant Example

Riparian / Wetland Shrub

Red-osier Dogwood (*Cornus sericea*)



Red stem color visible after leaf drop



Spring flowers



Fall color



Mature plant with summer foliage

Native Plant Example

Medium Upland Shrub

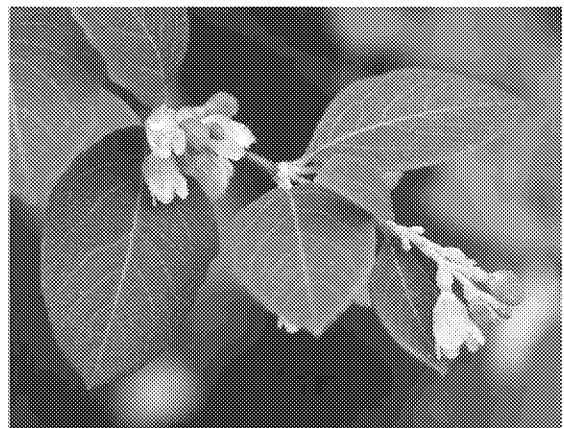
Snowberry (*Symphoricarpos albus*)



Mature plant



Fruit



Spring flowers

Native Plant Example

Medium Shrub

Rose Species

(*Rosa gymnocarpa*, *Rosa nutkana*, *Rosa pisocarpa*)



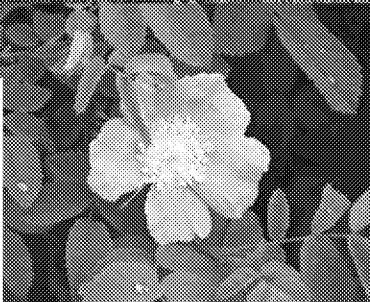
Rosa gymnocarpa



Rosa gymnocarpa



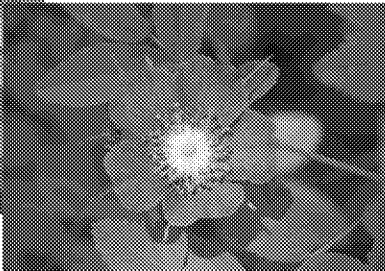
Rosa nutkana



Rosa nutkana



Rosa pisocarpa



Rosa pisocarpa

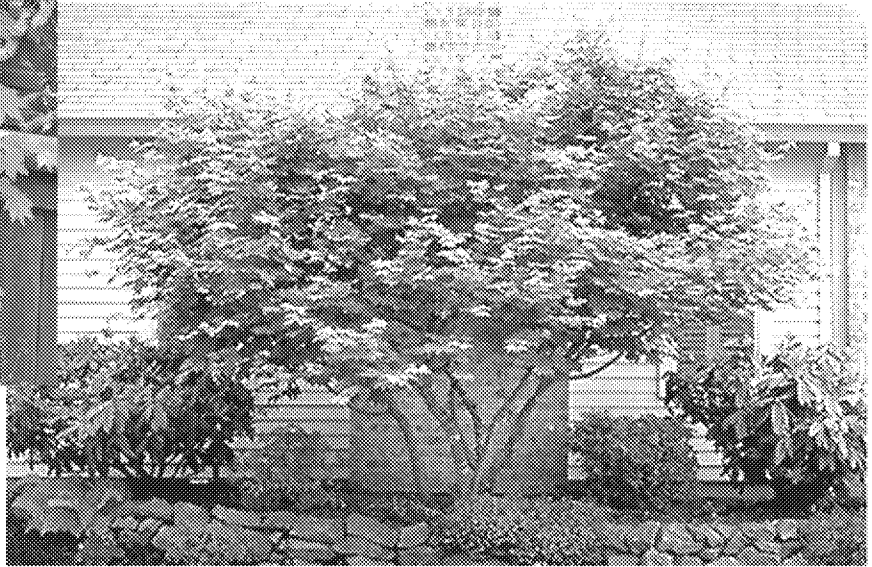
Native Plant Example

Small Deciduous Tree

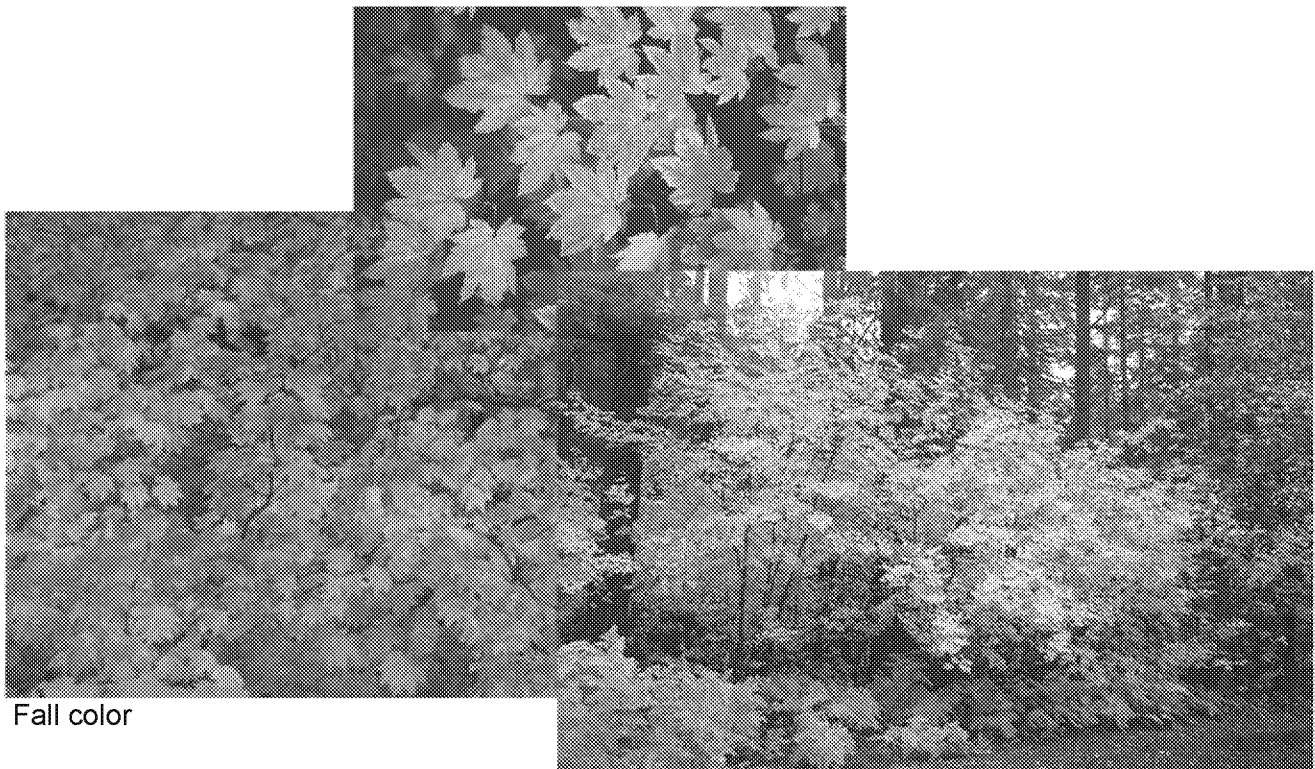
Vine Maple
(*Acer circinatum*)



Summer foliage



Landscape setting



Fall color

Native Plant Example

Medium Upland Shrub

Evergreen Huckleberry (*Vaccinium ovatum*)



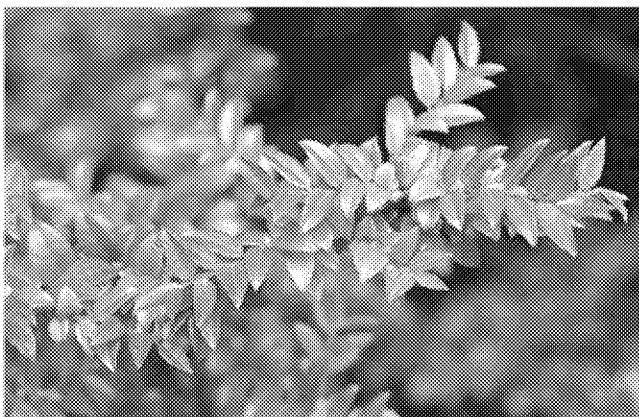
Mature plant



Spring flowers



Summer fruit



Bronze new growth



Reddish winter color

Native Plant Example

Large Upland Shrub

Tall Oregon Grape (*Mahonia aquifolium*)



Mature plant in spring bloom



Spring flowers



Summer fruit

[DATE]

Ms. Michelle Walker
Chief, Regulatory Branch
U.S. Army Corps of Engineers – Seattle District
Post Office Box 3755
Seattle, Washington 98124-3755

Re: Request for Nationwide Permit 32 Verification; Docket No. CWA-2016-0088

William C. Nelson, Jr. and the Estate of Barbara Nelson
7240 196th Avenue, Redmond, Washington, 98053

Dear Ms. Walker:

I am writing to request the Corps to verify that the restoration and mitigation project at the above-referenced Property is authorized by Nationwide Permit 32 (NWP 32). This request is made to comply with the provisions of the Administrative Compliance Order on Consent entered into between William C. Nelson, Jr. and the Estate of Barbara Nelson and the U.S. Environmental Protection Agency dated _____ 2016, CWA-10-2016-0088, and enclosed with this letter. I have also enclosed a Joint Aquatic Resources Project Application form and supporting documents, such as drawings.

I understand that this verification would remain valid until the current NWP 32 expires (currently, March 18, 2017) provided I comply with all applicable terms and conditions of the NWP 32 verification, including any special conditions, and the terms of the consent Order.

Please send the NWP 32 verification letter to: [Mailing Address]

Sincerely,

[Name]

Enclosures